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TARGET BRANDS INC.
1000 NICOLLET MALL, TPS-3165
MINNEAPOLIS, MN 55403

MAILED

AUG 11 2011

OFFICE OF PETITIONS

In re Application of :
Richard S. Gabrielson :
Application No. 11/833,120 : ON PETITION
Filed: August 2, 1007 :
Attorney Docket No. 2006-004773-0001 :

This is a decision on the petition under 37 CFR 1.181 (no fee) filed March 31, 2011, to withdraw the holding of abandonment.

A review of the record shows that a final Office action was mailed on March 23, 2010, which set a period for reply of three (3) from the mail date of the Office action. On June 23, 2011, an amendment, Notice of Appeal with fee and a Pre-Appeal Brief Request for Review was filed. On July 9, 2010, a Notice of Non-Compliant Pre-Appeal Brief Request for Review mailed, which stated that a conference will not be held and that the time period for filing an appeal brief continues to run from the receipt date of the Notice of Appeal. On July 23, 2010, an Advisory Action Before the Filing of an Appeal Brief was mailed. On July 29, 2010, petitioner filed a "RESPONSE TO NOTICE OF NON-COMPLIANT PRE-APPEAL BRIEF REQUEST FOR REVIEW." On March 10, 2011, a Notice of Abandonment was mailed. In response, the present petition was filed on March 31, 2011.

Petitioner states "According to the Pre-Appeal Brief conference pilot program published in the Official Gazette on July 12, 2005, upon filing a Pre-Appeal Brief Request for Review, "the time period for filing an appeal brief will be reset to be one month from mailing of the decision on the request, or the balance of the two-month time period running from the receipt of the Notice of Appeal, whichever is greater." Emphasis added. Since there has not yet been a decision on the Pre-Appeal Brief Request, Applicant submits that the holding of abandonment should be withdrawn."

Petitioner's argument has been considered, but not persuasive. The Pre-Appeal Brief Conference Pilot Program published in the Official Gazette on July 12, 2005, states that the filing of an after final amendment after the filing of a Pre-Appeal Brief Conference Request will terminate the panel's review. While the Office acknowledges a response to the Notice filed on July 29, 2010, the response was not proper. The Notice of Non-Compliant Pre-Appeal Brief Request for Review (Notice) mailed July 9, 2010, did not set any new time period for response. However, the Notice made it clear that (a) the request was dismissed and (b) the time period for filing an appeal brief continued to run from the receipt date of the Notice of Appeal. Therefore, since petitioner failed to submit an appeal brief within two months from the filing of the Notice of Appeal on June 23, 2010, this application was properly held abandoned.

In view of the above, the present petition is **dismissed**.

ALTERNATIVE VENUE

Petitioner is encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed.

(2) The petition fee as set forth in 37 CFR 1.17(m), $1,620 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 can be found on the Web site at www.uspto.gov form (PTO/SB/64).

Any request for reconsideration of this decision should be submitted within **two (2) months** from the mail date of this decision and be entitled as a "Renewed Petition."

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

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

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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1000 NICOLLET MALL, TPS-3165
MINNEAPOLIS, MN 55403

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OCT 18 2011

OFFICE OF PETITIONS

In re Application of
Richard S. Gabrielson
Application No. 11/833,120
Filed: August 2, 1007
Attorney Docket No. 2006-004773-0001

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed October 3, 2011, to revive the above-identified application.

A decision dismissing the petition under 37 CFR 1.181 to withdraw the holding of abandonment was mailed on August 11, 2011. In response, the present petition was filed.

It is noted that the present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34 the signature of Alan M. Kagen 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 satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief with the $620 fee (2) the petition fee of $1,860; 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 in the present petition. Thereafter, all future communications from the Office will be mailed solely to the address of record unless otherwise instructed.

This application file is being referred to Technology Center Art Unit 3628 for review of the response 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

cc: Alan M. Kagen
Nixon & Vanderhye P.C.
901 North Glebe Road – 11th Floor
Arlington, VA 22203-1808

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FREEDMAN & ASSOCIATES
55 MURRAY STREET
SUITE 230
OTTAWA ON K1N 5M3 CA CANADA

MAILED
APR 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Sam Zaid et al	:	
Application No. 11/833,201	:	DECISION ON PETITION
Filed: August 2, 2007	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 434-02 US	:	

This is a decision on the petition filed January 20, 2011, which is being treated as a petition under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

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

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

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

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

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

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The matter is being referred to Technology Center AU 3682 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.

/dab/
David Bucci
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
11/833,201	08/02/2007	3682	996	434-02 US	20	3

CONFIRMATION NO. 7480

CORRECTED FILING RECEIPT

25319
FREEDMAN & ASSOCIATES
55 Murray Street
Suite 230
Ottawa, ON K1N 5M3
CANADA

OC000000047254965

Date Mailed: 04/20/2011

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)

Sam Zaid, Ottawa, CANADA;
Paul Lem, Ottawa, CANADA;

Power of Attorney: The patent practitioners associated with Customer Number 25319

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/821,240 08/02/2006

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

If Required, Foreign Filing License Granted: 08/14/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/833,201**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Relevance Engine for Delivering Increasingly Relevant Content to Users

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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

In re Patent of Weber et al.	:
Patent No. 8,052,743	: DECISION ON REQUEST FOR
Issue Date: November 8, 2011	: RECONSIDERATION OF
Application No. 11/833,211	: PATENT TERM ADJUSTMENT
Filed: August 2, 2007	:
Attorney Docket No. 10527-686001	:

This is a decision on the petition filed on January 9, 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 seven hundred fifty-six (756) days.

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

BACKGROUND

On November 8, 2011, the above-identified application matured into U.S. Patent No. 8,052,743, with a revised patent term adjustment of 622 days. On Monday, January 9, 2012, patentees 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 756. Patentees maintain that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentees contend that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, patentees argue that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on June 28, 2011, thereby closing examination of the application on that date. Thus, patentees argue no continued

examination took place during the 134 day period from June 28, 2011 (the mailing date of the Notice of Allowance) until November 8, 2011 (the date the patent was issued). As such, patentees maintain that the "B delay" should include the 134 days and be increased from 302 to 436 days. Patentees conclude that the correct patent term adjustment is 756 days (the sum of 411 days of "A delay" and 436 days of "B delay" minus 91 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS

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

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

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

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

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

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

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

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

OPINION

Patentees' arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 302 days based on the application having been filed under 35 U.S.C. 111(a) on August 2, 2007 and the patent not having issued as of the day after the three year date, August 3, 2010, and a request for continued examination under 132(b) having been filed on June 1, 2011. In other words, the 134 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

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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.

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

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

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

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

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

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and

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

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

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

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

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

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

of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

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

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued

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

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

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

In this instance, a request for continued examination was filed on June 1, 2011, and the patent issued by virtue of that request on November 8, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on June 28, 2011 and ending on November 8, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 622 days indicated on the patent is correct.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

PTO/SB/425 (03-11)

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

Nonprovisional Application Number or Control Number (if applicable): 11/833,284	Patent Number (if applicable):
First Named Inventor: ANDO, et al.	Title of Invention: PATTERN TRANSFER METHOD AND IMPRINT DEVICE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Signature /Alan E. Schiavelli/	Date 5-13-2011
Name (Print/Typed) Alan E. Schiavelli	Practitioner Registration Number 32,087

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

☐ *Total of 1 forms are submitted.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
MAY 18 2011
OFFICE OF PETITIONS

In re Application of :
Takashi ANDO et al. :
Application No. 11/833,284 : DECISION ON PETITION
Filed: August 3, 2007 :
Attorney Docket No.: 500.47777X00 :

This is a decision on the request filed May 13, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on January 18, 2011. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914. 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 1742 for re-mailing the Office action of January 18, 2011. The period for reply will run from the mailing date of the Office action.

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

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

MAILED

SEP 29 2011

OFFICE OF PETITIONS

In re Application of	:	
Elizabeth Muggenthaler	:	
Application No. 11/833,317	:	DECISION ON PETITION
Filed: August 3, 2007	:	TO WITHDRAW
Attorney Docket No. 053307/331356	:	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 9, 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 cannot be approved because practitioners were appointed by customer number. Petitioner must withdraw in the same manner by which they were appointed. Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a Request for Customer Number Data Change (PTO/SB/124) and not a Request for Withdrawal As Attorney or Agent and Change of Correspondence Address (Form PTO/SB/83).

Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer Number Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (Form PTO/SB/83).

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

Telephone 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: ELIZABETH VON MUGGENTHALER
818 LAKE ORANGE ROAD
HILLSBOROUGH, NC 27278

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	11833317
Filing Date	03-Aug-2007
First Named Inventor	Elizabeth Muggenthaler
Art Unit	3771
Examiner Name	LATOYA LOUIS
Attorney Docket Number	053307/331356
Title	Method and Apparatus for Providing an Animal Vocalization Driven Massage Device

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 00826

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	Dr. Elizabeth von Muggenthaler
Address	818 Lake Orange Road
City	Hillsborough
State	NC
Postal Code	27278
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Nathaniel T. Quirk/
Name	Nathaniel T. Quirk
Registration Number	60676

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : October 7,2011

In re Application of :

Elizabeth Muggenthaler

Application No : 11833317

Filed : 03-Aug-2007

Attorney Docket No : 053307/331356

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

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

The request is **APPROVED.**

The request was signed by Nathaniel T. Quirk (registration no. 60676) on behalf of all attorneys/agents associated with Customer Number 00826 . All attorneys/agents associated with Cusotmer Number 00826 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	Dr. Elizabeth von Muggenthaler
Name2	
Address 1	818 Lake Orange Road
Address 2	
City	Hillsborough
State	NC
Postal Code	27278
Country	US

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

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

Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/30/10

TO SPE OF : ART UNIT: 1785 Attn: BERNATZ KEVIN M

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/833336 Patent No.: 7813202

CofC Mailroom date: 12/13/10

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

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

/Mark Ruthkosky/ _____ _1785__
SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE AZ 85251

MAILED
JUL 28 2011
OFFICE OF PETITIONS

In re Application of
Hyduke, et al.
Application No. 11/833,368
Filed: August 3, 2007
Atty. Dkt. No.: 4507P3170

: DECISION ON PETITION

This decision is in response to the petition under 37 CFR 1.137(b), filed July 20, 2011.

The petition is **GRANTED**.

The application became abandoned September 16, 2010 for failure to timely submit a proper reply to the non-final Office action mailed June 15, 2009. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time under 37 CFR 1.136(a) was timely filed. Notice of Abandonment was mailed January 3, 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 2167 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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TRASK BRITT, P.C./ MICRON TECHNOLOGY
P.O. BOX 2550
SALT LAKE CITY, UT 84110

MAILED

AUG 05 2011

OFFICE OF PETITIONS

In re Application of	:	
Luan C. Tran	:	
Application No. 11/833,386	:	DECISION GRANTING PETITION
Filed: August 3, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2269-8161US (06-1250.00)	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 4, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 14, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2811 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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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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DAVIS & BUJOLD, P.L.L.C.
112 PLEASANT STREET
CONCORD NH 03301

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,833,127 :
Issue Date: November 16, 2010 :
Application No. 11/833,433 : DECISION ON PETITION
Filed: August 3, 2007 :
Attorney Docket No. ZF P36AUS :

This is a decision on the Request For Certificate Of Correction Of Patent For Applicant's Mistake (37 CFR 1.323), filed February 16, 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-1050) was submitted with Petition.

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

Petitioner requests that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B and such error was a typographical error. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"Friedrichshafen AG"

to:

--**ZF** Friedrichshafen AG--

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

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

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), has been submitted. However, the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), is required. Therefore, since the petition was accompanied deposit account authorization, the fee has been charged. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO-1050) submitted with Petition.

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

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,833,127.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

2-3-2011

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

Patent No : 7,846,469 B2
Ser. No. : 11/833,472
Inventor(s) : Barbato, Guy F., et. al.
Issued : December 7, 2010

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
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ej

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MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PENNSYLVANIA STATE UNIVERSITY
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

MAILED
MAY 03 2011
OFFICE OF PETITIONS

In re Patent No. 7,846,469 :
Issue Date: December 7, 2010 :
Application No. 11/833,472 : ON PETITION
Filed: August 3, 2007 :
Attorney Docket No. P07661US01 :

This is a decision on the petition filed March 4, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the second assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3215. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

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

Charlema Grant
Petitions Attorney
Office of Petitions

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

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KELLEY DRYE & WARREN LLP
STEVEN J. MOORE
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD CT 06901

MAILED
MAR 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Virag et al.	:	ON PETITION
Application No. 11/833,517	:	
Filed: August 3, 2007	:	
Attorney Docket No. IK-160(P)(US)	:	

This is in response to the correspondence captioned "RESPONSE TO OBJECTION TO THE OATH/DECLARATION" filed February 18, 2011. The correspondence is being treated as a feeless petition under 37 CFR 1.181 requesting review of the Office of Petitions' acceptance of the declarations filed on January 16, 2008 and March 21, 2008.

The petition is **GRANTED**.

On January 30, 2008, the Office of Petitions mailed a decision accepting the declarations filed on January 16, 2008 and March 21, 2008.

In an Office action mailed February 5, 2010, the examiner of record determined the declarations filed on January 16, 2008 and March 21, 2008 were defective because they did not state that the person making the declaration acknowledges the duty to disclose to the Office all information known to the person to be "material to patentability as defined in 37 CFR 1.56."

The examiner reiterated the objection to the declaration in the Notice of Allowability, mailed January 27, 2001.

Petitioners filed the present correspondence in order to satisfy the new declaration requirement set in the Notice of Allowability. It is noted that the new declaration referenced in the correspondence is not among the papers filed on February 18, 2011. However, the declarations filed on January 16, 2008 and March 21, 2008 are acceptable, so it is unnecessary to submit another copy of the new declaration.

It is noted that the January 16, 2008 and March 21, 2008 declarations state "... I acknowledge the duty to disclose information which is material to the **examination** of this application in accordance with 37 CFR 1.56." (emphasis added).

An O.G. Notice - "Duty of Disclosure Language Set Forth in Oaths or Declarations Filed in Nonprovisional Patent Applications" (February 12, 2008) - discusses 37 CFR 1.63. All oaths or declarations filed on or after June 1, 2008, are required to include the language expressly set forth in 37 CFR 1.63, including that in 37 CFR 1.63(b)(3). In other words, any oath or declaration filed on or after June 1, 2008 must acknowledge a duty to disclose information material to **patentability** as defined in 37 CFR 1.56.

For pending applications, the Office *sua sponte* waived the express language requirement of 37 CFR 1.63(b)(3), where the oath or declaration was filed ***prior to June 1, 2008***. The express language of 37 CFR 1.63(b)(3) was waived only to the extent necessary such that an oath or declaration containing the "material to examination" or "in accordance with § 1.56(a)" language, or both, was accepted as acknowledging the applicant's duty to disclose information "material to patentability" as defined in 37 CFR 1.56. 1327 O.G. 112 (February 12, 2008).

As the declarations filed on January 16, 2008 and March 21, 2008 were filed prior to June 1, 2008, the "material to examination" language found therein was accepted as acknowledging the applicants' duty to disclose information "material to patentability" as defined in 37 CFR 1.56.

As the declarations filed on January 16, 2008 and March 21, 2008 contain acceptable language with respect to 37 CFR 1.63(b)(3), no objections to the declarations remain. While not required, applicants are free to submit a newly executed declaration with the language expressly set forth in current 37 CFR 1.63(b)(3), in accordance with 37 CFR 1.67.

The application is being referred to the Office of Data Management to await receipt of the issue fee, publication fee, and a completed PTOL-85(b) Part B: Fee(s) Transmittal.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED
JAN 04 2012
OFFICE OF PETITIONS

In re Patent No. 7,927,589 :
Issue Date: April 19, 2011 :
Application No. 11/833,590 : DECISION ON PETITION
Filed: August 3, 2007 :
Attorney Docket No. 2057.0090005 :

This is a decision on the Request For Certificate Of Correction Under 37 C.F.R. §1.323 For Applicants' Mistake, filed September 23, 2011, which is being treated as a Petition Under 37 CFR §3.81(b), to add the omission of the second assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

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

Petitioner requests that the present petition was submitted to add the omission of the second assignee's name on the previously submitted PTOL-85B and such error was applicants' mistake. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the omitted second assignee's name to the Title Page of the Letters Patent.

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

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

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

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

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,927,589.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of :
Aki et al. :
Application No. 11/833,592 :
Filed: August 3, 2007 :
Attorney Docket No. 01197.0226- :
07000 :
Title: PROCESS FOR PRODUCING :
CARBOSTYRIL DERIVATIVES :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-PRE-GRANT," filed February 4, 2010. Applicants contend the patent term adjustment under 35 U.S.C. §154(b) of 140 days.

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

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

On November 5, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is 0 days. In response, applicants timely filed the instant request for reconsideration of the patent term adjustment along with payment of the fee set forth in 37 C.F.R. § 1.18(e).

Applicants contend that the restriction requirement mailed on October 2, 2008 and the January 8, 2009 did not meet the requirements of 37 CFR 1.702(a)(1) because both actions were withdrawn and as such the first action was mailed on March 12, 2009. Thus an adjustment of 160 days is required.

Applicants' argument is not persuasive. A review of the record shows that no adjustment was required for failure by the Office to mail at least one of the notifications under 35 U.S.C. 132 not later than fourteen months after the date the application was filed under 35 USC 1.111(a), pursuant to 37 CFR §1.702(a)(1) as the restriction requirement was mailed within fourteen months.

The mailing of the restriction requirement on October 2, 2008, met the requirements of 37 CFR §1.702(a)(1). The subsequent mailing of the non-final Office action by the examiner withdrawing the previous actions does not negate the fact that the Office took action in this application within the meaning of § 1.702(a)(1) on October 2, 2008. The examiner does not have the authority to vacate, rescind, or withdraw an Office action. Unless vacated by the Technology Center Director, for purposes of calculating patent term adjustment, the actions originally mailed by the examiner on October 2, 2008 and January 8, 2009 will be used to calculate the amount of Office delay.

Applicants have also indicated that reductions totaling 20 days for the submission of Information Disclosure statements after the mailing of the Notice of Allowance are required.

Applicants request for review of the reductions after the mailing of the November 5, 2009 Notice of Allowance is **dismissed as premature**. The computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 0 days.

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

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

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

Anthony Knight
Director
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 3/30/2011

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/833598 Patent No.: 7772370B2

CofC mailroom date: 3/21/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: _____

ROBERT MONDESI
SUPERVISORY PATENT EXAMINER

Robert [signature] — **SPE**

1652 — **Art Unit**

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HOUSTON ELISEEVA
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SUITE 155
LEXINGTON, MA 02420

MAILED
AUG 04 2010
OFFICE OF PETITIONS

In re Application of
Leonid Kokurin
Application No. 11/833,617
Filed: August 3, 2007
Attorney Docket No. 0248.0002US1

ON PETITION

This is a decision on the petition, filed June 25, 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). This is also a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 25, 2010, to revive the above-identified application.

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

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

With respect to 37 CFR 1.137(f):

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country and the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. A review of the file record shows that a Request to Rescind was filed on June 25, 2010. However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application in a renewed petition under 37 CFR 1.137(b).

With respect to 37 CFR 1.137(b):

While it is noted that petitioner filed a petition to revive the above-identified application because petitioner failed to notify the Office of the filing of an application in a foreign country within the required eighteen (18) months, petitioner should also note that the application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 30, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under

the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 31, 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 petition to revive cannot be granted where there is an outstanding requirement. In this instance, there was no response to the outstanding Office action mailed April 30, 2009. A courtesy copy of this Office action is being mailed along with this decision. Accordingly, the petition to revive cannot be granted until the response to the Office action is received.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704. No additional petition fee is required.

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

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

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

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

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

Attachment: copy of the Office action mailed April 30, 2009. Blank copy of Petition to Revive Under the Unintentional Standards of 37 CFR 1.137(f).

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.
11/833,617	08/03/2007	Leonid Kokurin	836-001-1	8191

23996 7590 04/30/2009
PATENT LAW OFFICES OF RICK MARTIN, PC
PO BOX 1839
LONGMONT, CO 80502

EXAMINER
NGUYEN, CHAU N

ART UNIT	PAPER NUMBER
2831	

MAIL DATE	DELIVERY MODE
04/30/2009	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)	
	11/833,617	KOKURIN, LEONID	
	Examiner	Art Unit	
	Chau N. Nguyen	2831	

– 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 *11 March 2009*.

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) *1-19* is/are pending in the application.

4a) Of the above claim(s) *2,3 and 7-19* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 4-6* 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 *03 August 2007* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *10/23/07*.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Species 1, Figures 1a, 2a, and 2b and claims 1, 4, 5, and 6 in the reply filed on 3/11/09 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Objections

2. Claims 4-6 are objected to because of the following informalities: claim 4, line 2, before "L" insert --said load--; claim 4, line 3, before "LH" insert --said length--; claim 5, line 3, before "LH" insert --said length--; claim 6, line 3, before "LH" insert --said length--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. 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.

4. Claims 1 and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Dzurak (4,754,102).

Dzurak discloses a compensating conductive circuit comprising: an electric conductor (32) having a length LH connected from a signal source S to a load L (FIGS 2-3); and a first non-terminated compensating electric conductor (30) connected to S (re claim 1). Dzurak also discloses that the first non-terminated compensating electric conductor has a shape about straight (Figure 2) and laid out along a direction toward said load L and having a length about the same as said length LH (re claim 4), the first non-terminated compensating electric conductor is laid out in an arbitrary way (Figure 3) with respect to the electric conductor, and has a length about the same as said length LH (re claim 5), and the first non-terminated compensating electric conductor is laid out about parallel to the electric conductor (Figure 2) and has a length about the same as said length LH (re claim 6).

5. Claims 1 and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Brisson (4,718,100).

Brisson discloses a compensating conductive circuit comprising: an electric conductor (38) having a length LH connected from a signal source S (12) to a load L (18); and a first non-terminated compensating electric conductor (24) connected to said S (re claim 1). Brisson also discloses that the first non-terminated compensating electric conductor has a shape about straight (Figure 1) and laid out along a direction toward said load L and having a length about the same as said length LH (re claim 4), the first non-terminated compensating electric conductor is laid out in an arbitrary way (Figure 1) with respect to the electric conductor, and has a length about the same as said length LH (re claim 5), and the first non-terminated compensating electric conductor is laid out about parallel to the electric conductor (Figure 1) and has a length about the same as said length LH (re claim 6).

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chau N. Nguyen whose telephone number is 571-272-1980. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutiérrez can be reached on 571-272-2800 ext

31. 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.

/Chau N Nguyen/
Chau N Nguyen
Primary Examiner
Art Unit 2831

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LEXINGTON, MA 02420

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OFFICE OF PETITIONS

In re Application of
Leonid Kokurin
Application No. 11/833,617
Filed: August 3, 2007
Attorney Docket No. 0248.0002US1

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition, filed October 4, 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). This is also a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b) filed October 4, 2010, to revive the above-identified application.

The petitions are **GRANTED**.

With respect to the petition filed under 37 CFR 1.137(f):

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on July 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 which sets forth the projected publication date of February 17, 2011 accompanies this decision on petition.

With respect to the petition filed under 37 CFR 1.137(b):

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 30, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 31, 2009.

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

Telephone inquiries concerning this decision should be directed to 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 forwarded to Technology Center Art Unit 2831 for appropriate action by the Examiner in the normal courts of business on the reply received October 4, 2010.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/833,617	08/03/2007	Leonid Kokurin	0248.0002US1

CONFIRMATION NO. 8191

29127
HOUSTON ELISEEVA
420 BEDFORD ST
SUITE 155
LEXINGTON, MA 02420

NONPUBLICATION RESCISSION LETTER

OC000000044407322

Date Mailed: 11/09/2010

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 02/17/2011.

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".

/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.go

MAILED
NOV 10 2010
OFFICE OF PETITIONS

STEPTOE & JOHNSON – NEOTRACT
2121 AVENUE OF THE STARS, SUITE 2800
LOS ANGELES CA 90067

In re Application of	:	
Joseph Catanese III et al	:	
Application No. 11/833,710	:	DECISION ON PETITION
Filed: August 3, 2007	:	UNDER 37 CFR 1.313(c)
Attorney Docket No. 83455.0003.D4	:	

This is a decision on the petition filed November 9, 2010, which is being treated under 37 CFR 1.313(c), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition 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;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

If petitioner intends to file under 37 CFR 1.313(c)(1), compliance to the above should be provided.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the renewed petition.

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) 273-0025**
ATTN: Office of Petitions

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEPTOE & JOHNSON – NEOTRACT
2121 AVENUE OF THE STARS, SUITE 2800
LOS ANGELES CA 90067

MAILED
NOV 19 2010
OFFICE OF PETITIONS

In re Application of
Joseph Catanese III et al
Application No. 11/833,710
Filed: August 3, 2007
Attorney Docket No. 83455.0003.D4

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(1)

This is a decision on the petition under 37 CFR 1.313(c)(1), filed November 18, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition 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;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

The petition complies with the requirements of 37 CFR 1.313(c)(1). Accordingly, the above-identified application is withdrawn from issue.

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.[1]

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

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

The application is being referred to Technology Center AU 3773 for consideration of the amendment filed on November 9, 2010.

KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON, DC 20005

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Holger Janssen	:	DECISION ON PETITION
Application No. 11/833,733	:	TO WITHDRAW
Filed: August 3, 2007	:	FROM RECORD
Attorney Docket No. VTX0353-US	:	

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

The request is **NOT APPROVED**.

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

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

As there is no Statement under 37 CFR 3.73(b) in the instant application, the request cannot be granted. All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There are no outstanding Office actions that require a reply from the applicant.

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

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614

MAILED
SEP 14 2010
OFFICE OF PETITIONS

In re Application of	:	
David L. VESELY	:	
Application No. 11/833,757	:	NOTICE
Filed: August 3, 2007	:	
Attorney Docket No. USF .287XT	:	

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 **NOT ACCEPTED**.

The fee deficiency cannot be accepted because a proper itemization has not 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.

The deficiency payment submitted July 13, 2010, is acknowledged, however, does not include a proper itemization of the extension of time and RCE fees, as indicated above.

This itemization must be provided within one (1) month of the mail date of this decision to avoid the return of the deficiency payment. See 37 CFR 1.28 (c)(3). No extension of this 1-month time limit will be granted under 37 CFR 1.136(a).

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

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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SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Patent No. 7,825,092 :
Issue Date: November 2, 2010 :
Application No. 11/833,757 : NOTICE
Filed: August 3, 2007 :
Attorney Docket No. USF.278XT :

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

-Paper No.: _____

DATE : February 28, 2011

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/833757 patent no 7825092

CofC mailroom date: 2-11-11

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

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: All changes approved

Deleted: _____

/Jeffrey Stucker/ 1649

Deleted: ___

SPE **Art Unit**

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

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

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 1400-1089US	
Application Number: 11/833,767	Filing Date (or 371(b) or (f) Date): August 03, 2007
Patent Number: 7,668,159	Issue Date: February 23, 2010
First Named Inventor: Adrian Buckley	
Title: Methods And Apparatus For Obtaining Variable Call Parameters Suitable For Use In Originating A Sip Callvia A Ciruit-Switched Network From A User Equipment Device	

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 /Shreen K Danamraj/	Date August 6, 2010
Name (Print/Typed) Shreen K. Danamraj	Registration Number 41,696

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

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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

RESEARCH IN MOTION
ATTN: GLENDA WOLFE
BUILDING 6, BRAZOS EAST, SUITE 100
5000 RIVERSIDE DRIVE
IRVING, TX 75039

Mail Date: 09/02/2010

Applicant	: Adrian Buckley	: DECISION ON REQUEST FOR
Patent Number	: 7668159	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/833,767	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/03/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RUSSO & DUCKWORTH , LLP
9090 IRVINE CENTER DRIVE , SECOND FLOOR
IRVINE CA 92618

MAILED

JUN 16 2011

OFFICE OF PETITIONS

In re Application of	:	
Randall James Lanham	:	
Application No. 11/833,817	:	DECISION ON PETITION
Filed: August 3, 2007	:	
Attorney Docket No. **57489-335881**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 7, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 17, 2010 which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 18, 2010.

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

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

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

This application is being referred to Technology Center AU 2629 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

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
11/833,817	08/03/2007	Randall James Lanham	57489-335881

CONFIRMATION NO. 8545

POA ACCEPTANCE LETTER

71850
RUSSO & DUCKWORTH , LLP
9090 IRVINE CENTER DRIVE , SECOND FLOOR
IRVINE, CA 92618

OC000000048246620

Date Mailed: 06/16/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/07/2011.

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

/jlburke/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OPX Biotechnologies, Inc.
2425 55th Street, Ste.
#100
Boulder, CO 80301

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Ryan T. Gill, et. al.	:	
Application No. 11/833,879	:	NOTICE
Filed: August 3, 2007	:	
Attorney Docket No. 66888-357828	:	

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on October 21, 2010.

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and any future fee submitted must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENTTM.US
P.O. BOX 82788
PORTLAND OR 97282-0788

MAILED
MAR 22 2011
OFFICE OF PETITIONS

In re Application of :
Stanford Neglay et al :
Application No. 11/833,885 : DECISION ON PETITION
Filed: August 3, 2007 :
Attorney Docket No. W-340 :

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

The petition is **GRANTED**.

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 May 21, 2010, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3725 for appropriate action by the Examiner in the normal course of business.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

John W. Fisher
1401 Pearl Street
Boulder CO 80302

MAILED
SEP 26 2011
OFFICE OF PETITIONS

In re Application of	:	
John W. Fisher, Jr.	:	
Application No. 11/833,949	:	DECISION ON PETITION
Filed: August 3, 2007	:	
Attorney Docket No.	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to properly reply in a timely manner to the non-final Office action mailed July 2, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 3, 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 $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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on September 14, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

This application is being referred to Technology Center AU 3629 for appropriate action by the Examiner in the normal course of business on the reply received September 14, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: David S. Atkinson
Dorsey & Whitney, LLP
1400 Wewatta Street
Suite 400
Denver, CO 80202-5549

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS IN 46204

MAILED
MAR 17 2011
OFFICE OF PETITIONS

In re Application of	:	
Paul J. Gray	:	
Application No. 11/833,958	:	DECISION GRANTING PETITION
Filed: August 3, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. HUR-P197-US-01	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, March 16, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 27, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2121 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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KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111

MAILED
AUG 30 2011
OFFICE OF PETITIONS

In re Patent No. 7,964,566	:	DECISION ON REQUEST FOR
DORONINA et al.	:	RECONSIDERATION OF
Issue Date: June 21, 2011	:	PATENT TERM ADJUSTMENT
Application No. 11/833,959	:	AND
Filed: August 3, 2007	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 018891-001022US	:	CERTIFICATE OF CORRECTION

This is a decision on the petition under 37 CFR 1.705(d) filed August 19, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred fifteen (815) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred fifteen (815) days is **GRANTED**.

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 **815 days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,964,566 B2

DATED : Jun. 21, 2011 **DRAFT**

INVENTOR(S) : Doronina et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 751 days.

Delete the phrase "by 751 days" and insert – by 815 days--

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 8/2/2010
Patent No.	: 7,742,171 B2
Serial No.	: 11/834,030
Inventor(s)	: Noar et al.
Issue Date	: June 22, 2010
Title	: **REFLECTIVITY/EMISSIVITY MEASUREMENT PROBE INSENSITIVE TO VARIATIONS IN PROBE-TO-TARGET DISTANCE**
Doc./File No.	: **81/65**

Re: Reconsideration 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, inspection of the file of the application for the patent reveals that the patent is/are printed in accordance with the record in the Patent and Trademark Office, as passed to issued by the examiner. No correction is in order here.

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

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

Ernest C. White, *LIE* (703) 756-1590
Mary F. Diggs, *Supervisor* (703) 756-1580
Decisions & Certificates of Correction Branch
ernest.white@uspto.gov

DR. MARK M. FRIEDMAN
C/O BILL POLKINGHORN - DISCOVERY DISPATCH
9003 FLORIN WAY
UPPER MARLBORO MD 20772

ecw

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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San Diego IP Law Group LLP
attn: Trevor Coddington, Esq.
12526 High Bluff Drive
Suite 300
San Diego CA 92130

MAILED
SEP 07 2011
OFFICE OF PETITIONS

In re Application of :
Seth VOLTZ et al. :
Application No. 11/834,121 :
Filed: August 6, 2007 :
Attorney Docket No. 2870.002US1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 23, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Requirement for Restriction/Election mailed July 21, 2010, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 22, 2010.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to the requirement for restriction/election; (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the requirement for restriction/election of July 21, 2010 is accepted as having been unintentionally delayed.

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

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 response on February 23, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 50-5441.

Telephone inquiries concerning this decision should be directed to Andre Boyce at (571) 272-6726, or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2432 for appropriate action on the concurrently filed response to the requirement for restriction/election.

David A. Bucci
Petitions Examiner
Office of Petitions

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MAILED
MAY 03 2011
OFFICE OF PETITIONS

AVERY DENNISON CORPORATION
AMANDA WITTINE
8080 NORTON PARKWAY
22-D
MENTOR OH 44060

In re Application of	:	
KIAN	:	
Application No. 11/834,139	:	ON PETITION
Filed: August 6, 2007	:	
Attorney Docket No. AVERP436US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 8, 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 3, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). An extension of time for one (1) month pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is January 4, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, 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). Since the $980 extension of time fee submitted with the petition on March 8, 2011, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account. No. 01-3025.

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

This application is being referred to Technology Center 1745 for further processing in the normal course of business.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/21/10

TO SPE OF : ART UNIT 1774

SUBJECT : Request for Certificate of Correction for Appl. No.: 11834190 Patent No.: 7794133

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

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

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

/Walter Griffin/
SPE

1774
Art Unit

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	11834215
Filing Date	06-Aug-2007
First Named Inventor	Naoki Ito
Art Unit	2624
Examiner Name	EUENG NAN YEH
Attorney Docket Number	00862.144265.
Title	IMAGE PROCESSING APPARATUS AND METHOD FOR ATTRIBUTE DATA ENCODING

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	/Seth E. Boeshore/
Name	Seth E. Boeshore
Registration Number	63049

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : May 2,2011

In re Application of :

Naoki Ito

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11834215

Filed : 06-Aug-2007

Attorney Docket No : 00862.144265.

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

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 2624 for processing of the request for continuing examination under 37 CFR 1.114 .

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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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON DE 19805

MAILED

NOV 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Jing-Chung Chang, et al.	:	
Application No. 11/834,248	:	DECISION ON PETITION
Filed: August 6, 2007	:	
Attorney Docket No. CL3879USNA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 8, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 30, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed May 28, 2010. Accordingly, the date of abandonment of this application is August 31, 2010. The Notice of Abandonment was mailed September 14, 2010.

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

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/834,271	08/06/2007	Robert P. Morris	1463/US	9455

49277 7590 02/04/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
HERNDON, HEATHER R

ART UNIT	PAPER NUMBER
2176	

MAIL DATE	DELIVERY MODE
02/04/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh NC 27607

In re Application of:
MORRIS, Robert
Application No. 11/834,271
Filed: August 6, 2007
For: **METHODS AND APPARATUS FOR SHARING USER INTERFACE WIDGET ANNOTATIONS**

DECISION ON PETITION UNDER 37 C.F.R. § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on January 24, 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on January 24, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to Eddie C. Lee whose telephone number is (571) 272-1732.

Vincent Trans
Quality Assurance Specialist, TC 2100
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/834,271	08/06/2007	Robert P. Morris	1463/US	9455

49277 7590 06/02/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
BLOOMQUIST, KEITH D

ART UNIT	PAPER NUMBER
2178	

MAIL DATE	DELIVERY MODE
06/02/2011	PAPER

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

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

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P.O. Box 1450
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SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh NC 27607

In re Application of:
MORRIS, Robert
Application No. 11/834,271
Filed: August 6, 2007
For: **METHODS AND APPARATUS FOR SHARING USER INTERFACE WIDGET ANNOTATIONS**

DECISION ON PETITION UNDER 37 C.F.R. § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on May 6, 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on May 6, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to Eddie C. Lee whose telephone number is (571) 272-1732.

/Eddie C. Lee/

Quality Assurance Specialist, TC 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/834,271	08/06/2007	Robert P. Morris	1463/US	9455

49277 7590 12/22/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
BLOOMQUIST, KEITH D

ART UNIT	PAPER NUMBER
2178	

MAIL DATE	DELIVERY MODE
12/22/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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John A. Demos
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/834,271
Filed: August 06, 2007
For: METHODS AND APPARATUS FOR SHARING USER INTERFACE WIDET ANNOTATIONS

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 21 December 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 21 December 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/834,271	08/06/2007	Robert P. Morris	1463/US	9455

49277 7590 03/29/2012
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
BLOOMQUIST, KEITH D

ART UNIT	PAPER NUMBER
2178	

MAIL DATE	DELIVERY MODE
03/29/2012	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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John A. Demos
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of: Robert P. MORRIS Appl. No.: 11/834,271 Filed: August 06, 2007 For: METHODS AND APPARATUS FOR SHARING USER INTERFACE WIDET ANNOTATIONS	DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 27 March 2012.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 27 March 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/834,280	08/06/2007	Robert P. Morris	1464/US	9470

49277 7590 02/04/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
SONG, DAEHO D

ART UNIT	PAPER NUMBER
2172	

MAIL DATE	DELIVERY MODE
02/04/2011	PAPER

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

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

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

In re Application of:
MORRIS, Robert
Application No. 11/834,280
Filed: August 6, 2007
For: **METHODS AND APPARATUS FOR USING ANNOTATED USER INTERFACE WIDGETS IN SEARCH OPERATIONS**

DECISION ON PETITION UNDER 37 C.F.R. § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on January 24, 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on January 24, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to Eddie C. Lee whose telephone number is (571) 272-1732.

Vincent Trans
Quality Assurance Specialist, TC 2100
571-272-3613

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/834,280	08/06/2007	Robert P. Morris	1464/US	9470

49277 7590 06/02/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
SONG, DAEHO D

ART UNIT	PAPER NUMBER
2172	

MAIL DATE	DELIVERY MODE
06/02/2011	PAPER

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

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

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Alexandria, VA 22313-1450
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SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh NC 27607

In re Application of:
MORRIS, Robert
Application No. 11/834,280
Filed: August 6, 2007
For: **METHODS AND APPARATUS FOR USING ANNOTATED USER INTERFACE WIDGETS IN SEARCH OPERATIONS**

DECISION ON PETITION UNDER 37 C.F.R. § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on May 6, 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on May 6, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to Eddie C. Lee whose telephone number is (571) 272-1732.

/Eddie C. Lee/

Quality Assurance Specialist, TC 2100

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/834,280	08/06/2007	Robert P. Morris	1464/US	9470

49277 7590 12/22/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
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Raleigh, NC 27607

EXAMINER
SONG, DAEHO D

ART UNIT	PAPER NUMBER
2172	

MAIL DATE	DELIVERY MODE
12/22/2011	PAPER

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

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

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John A. Demos
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of: Robert P. MORRIS Appl. No.: 11/834,280 Filed: August 06, 2007 For: METHODS AND APPARATUS FOR USING ANNOTATED USER INTERFACE WIDGETS IN SEARCH OPERATIONS	DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 21 December 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 21 December 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/834,280	08/06/2007	Robert P. Morris	1464/US	9470

49277 7590 03/29/2012
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
SONG, DAEHO D

ART UNIT	PAPER NUMBER
2141	

MAIL DATE	DELIVERY MODE
03/29/2012	PAPER

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

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

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John A. Demos
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of: Robert P. MORRIS Appl. No.: 11/834,280 Filed: August 06, 2007 For: METHODS AND APPARATUS FOR USING ANNOTATED USER INTERFACE WIDGETS IN SEARCH OPERATIONS	DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 27 March 2012.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 27 March 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software

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

MAILED
NOV 17 2010
OFFICE OF PETITIONS

In re Application of	:	
Chuanyun Wang et al.	:	
Application No. 11/834,281	:	NOTICE
Filed: August 06, 2007	:	
Attorney Docket No. **01640590AA**	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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ANISSIMOFF & ASSOCIATES
TALBOT CENTRE
140 FULLARTON STREET
SUITE 101
LONDON ON N6A 5P2 CA CANADA

In re Application of	:	
Joseph P. McGee	:	
Application No. 11/834,300	:	ON PETITION
Filed: August 6, 2007	:	
Attorney Docket No. 942820	:	

This is a decision on the petition to revive under 37 CFR 1.137(a), filed March 10, 2011.

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

The above-identified application became abandoned for failure to reply to the non-final Office action mailed April 5, 2010. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on July 6, 2010. The Office mailed a Notice of Abandonment on November 12, 2010.

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

disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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

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

Petitioner argues that the Office action was mailed to the incorrect address. A review of the application file reveals the presence of a Power of Attorney and Correspondence Address Indication Form, accompanied by a 37 CFR 3.73(b) Statement, filed on September 8, 2009. A review of the application reveals that the Office action mailed on April 5, 2010 was improperly mailed to the prior address of record.

In view of the above, it is concluded that petitioner has met his burden of establishing that the delay was unavoidable.

The application is being forwarded to Group Art Unit 1788 for consideration of the Amendment, filed March 10, 2011.

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

Cliff Congo
Petitions Attorney
Office of Petitions

---

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

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

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KUNZLER, NEEDHAM, MASSEY & THORPE
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY, UT 84111

MAILED
DEC 15 2011
OFFICE OF PETITIONS

In re Application of Michael Moore Application No. 11/834,400 Filed: August 6, 2007 Attorney Docket No. 2109.2.1	: : : : :	DECISION ON PETITION

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 18, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 19, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $930, 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 3772 for appropriate action by the Examiner in the normal course of business on the reply received November 18, 2011.

April M. Wise
Petitions Examiner
Office of Petitions

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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.
11/834,458	08/06/2007	Daniel J. Brunelle	220404-1/SABI 2 00015	9797

45111 7590 03/21/2012
SABIC - PCC & PLX
SABIC Innovative Plastics - IP Legal
ONE PLASTICS AVE.
PITTSFIELD, MA 01201-3697

EXAMINER
VALDEZ, DEVE E

ART UNIT	PAPER NUMBER
1765	

NOTIFICATION DATE	DELIVERY MODE
03/21/2012	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):

peter.dimattia@sabic-ip.com
elizabeth.thoresen@sabic-ip.com

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March 20, 2012

SABIC - PCC & PLX
SABIC Innovative Plastics - IP Legal
ONE PLASTICS AVE.
PITTSFIELD MA 01201-3697

In re Application of	:	
Daniel J. Brunelle et al.	:	**DECISION ON PETITION**
Application No. 11834458	:	
Filed: 08/06/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **220404-1/SABI 2 00015**	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) August 6, 2007.

The petition is **GRANTED**.

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

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

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

Telephone 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 12 2012
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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Patent No. 8,044,054 Argade et al. Issue Date: October 25, 2011 Application No. 11/834,473 Filed: August 6, 2007 Attorney Docket No. 06-949-A-DIV Title: PYRROLOPYRIDINE-2-CARBOXYLIC ACID AMIDE INHIBITORS OF GLYCOGEN PHOSP	DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the petition filed under 37 CFR 1.705(d) on December 27, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred nineteen (819) days.

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

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

Patentee's dispute the period of time excluded from B delay for appellate review. Patentees contend that any time an application spends on appeal before the period beginning three years after the actual filing date of the application is irrelevant for determining b-delay. As such patentees maintain an additional 119 days for patent term adjustment is warranted.

Patentees' argument has been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal

to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). Time consumed by an appeal begins whenever the appeal is filed.

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

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

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

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

Charlema Grant

Charlema Grant
Attorney Advisor
Office of Petitions

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Alexandria, VA 22313-1450
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WASSERMAN, COMDEN & CASSELMAN, L.L.P.
5567 RESEDA BOULEVARD
SUITE 330
TARZANA CA 91357-7033

MAILED
JUL 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Raffi T. Gabriel	:	
Application No. 11/834,504	:	DECISION ON PETITION
Filed: August 6, 2007	:	TO WITHDRAW
Attorney Docket No. StrIPgCN38/1H	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 28, 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 Raffi Gabriel, on behalf of all attorneys/agents associated with customer number 75398. All attorneys/agents associated with customer number 75398 have been withdrawn.

The correspondence address had 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: Raffi Gabriel
16642 Kinsize Street
North Hills, CA 91343

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/834,504	08/06/2007	Raffi T. Gabriel	StrIPgCN38/1H

CONFIRMATION NO. 9865

POWER OF ATTORNEY NOTICE

OC000000048672000

75398
WASSERMAN, COMDEN & CASSELMAN, L.L.P.
5567 RESEDA BOULEVARD
SUITE 330
TARZANA, CA 91357-7033

Date Mailed: 07/08/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/28/2011.

- 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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DIW JA-11

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

MAILED
JUL 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Goto et al.	:	
Application Number: 11/834,589	:	ON PETITION
Filing Date: 08/06/2007	:	
Attorney Docket Number: 18814-076001 / P5432US1	:	

This is a decision in response to the petition under 37 CFR 1.137(b) filed on June 7, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on March 1, 2011, for failure to timely file a reply to the non-final Office action mailed on November 29, 2010, which set a three (3)-month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on June 10, 2011.

Receipt of the reply filed on June 7, 2011 is acknowledged.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[1] The three (3)-month extension request filed on June 7, 2011, was submitted more than three (3) months after the end of the period for reply to the non-final Office action mailed on November 29, 2010, and therefore is unnecessary. The extension of time fee paid on June 7, 2011, will be refunded to counsel's deposit account.

[1] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

The application is referred to Technology Center Art Unit 2175 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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REED SMITH, LLP
101 Second Street
Suite 1800
SAN FRANCISCO, CA 94105

MAILED

MAR 14 2012

OFFICE OF PETITIONS

In re Application of
Will Wright, et. al.
Application No. 11/834,613
Filed: August 6, 2007
Attorney Docket No. 364194-6

DECISION ON PETITION
TO WITHDRAW FROM
RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 37 CFR 10.40, filed February 3, 2012.

The request is **NOT APPROVED**.

The request cannot be approved because Doyle B. Johnson and all the attorneys/agents of record have not provided a correspondence address for the intervening assignee[1] or first named inventor. Therefore, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

The Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82).

Additionally, petitioner should note that the Revocation and Power of Attorney and Change of Address filed on January 20, 2010, was accepted in error. In this regard, the signer, Kimberly Edwards, failed to provide a printed name as well as her title; therefore, if petitioner desires to change the correspondence address to the assignee rather than the first named inventor, the renewed petition under 37 CFR 1.36 must contain a proper Statement under 37 CFR 3.73(b).
See USPTO Form No. PTO/SB/96.

There is an outstanding Office action mailed on November 25, 2011, that requires a reply from the applicant.

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

/Andrea Smith/
Andrea Smith
Petitions Examiner
Office of Petitions

[1] 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).

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ABSOLUTE TECHNOLOGY LAW GROUP LLC
3316 W. WISCONSIN AVENUE
MILWAUKEE, WI 53208

MAILED

JAN 3 1 2011

OFFICE OF PETITIONS

In re Application of	:	
CAVETT, Jeffrey	:	
Application No. 11/834,620	:	DECISION ON PETITION
Filed: August 06, 2007	:	TO WITHDRAW
Attorney Docket No. **Y10.0147**	:	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 20, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Absolute Technology Law Group LLC has been revoked by the applicant of the patent application on January 03, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MATHEW R. P. PERRONE, JR.**
210 SOUTH MAIN STREET
ALGONQUIN IL 60102-2639

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.
11/834,733	08/07/2007	Michael D. Bentley	BEN001-CON	1207

24222 7590 03/21/2011
Vern Maine & Associates
547 AMHERST STREET, 3RD FLOOR
NASHUA, NH 03063-4000

EXAMINER
LIM, SENG HENG

ART UNIT	PAPER NUMBER
3717	

NOTIFICATION DATE	DELIVERY MODE
03/21/2011	ELECTRONIC

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

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

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

patents@vernmaine.com
jjudkins@vernmaine.com

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Vern Maine & Associates
547 AMHERST STREET, 3RD FLOOR
NASHUA NH 03063-4000

In re Application of: BENTLEY, MICHAEL D. :
Appl. No.: 11/834733 : **DECISION ON PETITION**
FILED
Filed: August 7, 2007 : **UNDER 37 C.F.R. § 1.84(a)(2)**
For: METHOD AND SYSTEM FOR ATHLETIC :
MOTION ANALYSIS AND INSTRUCTION :

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed August 7, 2007, requesting acceptance of color drawings.

37 C.F.R. § 1.84(a)(2) states that on rare occasions, color drawings may be necessary as the only practical medium by which to disclose the subject matter sought to be patented in a utility or design patent application or the subject matter of a statutory invention registration. The color drawings must be of sufficient quality such that all details in the drawings are reproducible in black and white in the printed patent. Color drawings are not permitted in international applications (see PCT Rule 11.13), or in an application, or copy thereof, submitted under the Office electronic filing system. The Office will accept color drawings in utility or design patent applications and statutory invention registrations only after granting a petition filed under this paragraph explaining why the color drawings are necessary. Any such petition must include the following:
(i) The fee set forth in § 1.17(h);
(ii) Three (3) sets of color drawings;
(iii) An amendment to the specification to insert (unless the specification contains or has been previously amended to contain) the following language as the first paragraph of the brief description of the drawings:

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

Applicant has provided the required fee, the three sets of color drawings and the required statement in the specification. However, MPEP 608.02 states that it is anticipated that such a petition will be granted only when the U.S. Patent and Trademark Office has determined that a

color drawing or color photograph is the only practical medium by which to disclose in a printed utility patent the subject matter to be patented. In the present application this is not the case. Further inspection of the parent case 11/340088, shows a clearer white background (i.e. graphs) for Figure 9; which shows that the software used, could be easily modified to show clearer images with white background for the figures. This also applies to figures 11-15, wherein the background colors can be changed to white to clearer show the image structures. Therefore, the use of color drawings in this application is not the only practical medium by which to disclose in a printed utility patent the subject matter to be patented.

Accordingly, this petition is denied.

/S. H. L./
Examiner, Art Unit 3717

/Melba Bumgarner/
Supervisory Patent Examiner, Art Unit 3717

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	11834803
Filing Date	07-Aug-2007
First Named Inventor	TIMOTHY KEE
Art Unit	1778
Examiner Name	LUCAS STELLING
Attorney Docket Number	US20050514
Title	PORTABLE OZONATION APPARATUS FOR STORING AND PURIFYING LIQUID

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	/Everett G. Diederiks, Jr./
Name	Everett G. Diederiks, Jr.
Registration Number	33323

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Decision Date : October 10,2011

In re Application of :

TIMOTHY KEE

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11834803

Filed : 07-Aug-2007

Attorney Docket No : US20050514

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

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 1778 for processing of the request for continuing examination under 37 CFR 1.114 .

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.
11/834,810	08/07/2007	Valentina Pulnikova	Pulnikova	1333

68380 7590 03/04/2011
DR. PULNIKOVA VALENTINA
WEIHERSTRASSE 9
VILLINGEN-SCHWENNINGEN, 78050
GERMANY

EXAMINER
SHAH, AMEE A

ART UNIT	PAPER NUMBER
3625	

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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DR. PULNIKOVA VALENTINA
WEIHERSTRASSE 9
VILLINGEN-SCHWENNINGEN, 78050
GERMANY

In re Application of	:	
Valentina Pulnikova	:	Decision on Petition under
Application No. 11/834,810	:	37 CFR 1.181
Filed: August 7, 2007	:	
For: SYSTEM AND METHOD OF GLOBAL	:	
ELECTRONIC TRADE IN THE INTERNET	:	

This is in response to the communication filed February 14, 2011 entitled "Demand of disqualification of examiner." It is being treated as a petition under 37 CFR 1.181 for Supervisory Review.

The petition is **DISMISSED.**

The petition makes reference to an a "Reply to Office Action, mailed on the 21th of October 2010." However, a review of the prosecution file shows that there is no Office action or any Reply to Office Action dated October 21, 2010. The first Office action issued by the examiner is a Requirement for Restriction mailed January 25, 2011.

Petitioner alleges "falsification of evidences during the process of examination of my invention." A review of the January 25, 2011 Office Action finds that there is no abuse of discretion or arbitrary or capricious action by the examiner, and thus there is no compelling reason to remove the examiner. Taking issue with the grounds or content of the Requirement for Restriction is petitionable under 37 CFR 1.144 for withdrawal of the restriction requirement.

Any questions or comments with respect to this decision should be directed to Teri P. Luu, Quality Assurance Specialist at (571) 272-7045.

Wynn Coggins, Director
Technology Center 3600
(571) 272-5350

WC/tl: 3/3/11

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DR. PULNIKOVA VALENTINA
WEIHERSTRASSE 9
VILLINGEN-SCHWENNINGEN 78050 DE GERMANY

MAILED
JUN 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Valentina Pulnikova	:	
Application No. 11/834,810	:	ON PETITION
Filed: August 7, 2007	:	
Attorney Docket No. Pulnikova	:	

This is in response to **The protest against action of Mrs. Wynn Coggins, Director Technology Center 3600 and Demand of disqualification of examiner** filed March 13, 2011, which is being treated as a petition under 37 CFR 1.181 requesting that the Director exercise his supervisory authority and overturn the decision of the Technology Center Director (3600) dated March 4, 2011.

The petition is **dismissed** as being moot.

Office records show that applicant filed a letter of Express Abandonment under 37 CFR 1.138 on April 29, 2011 and a Notice of Abandonment was mailed May 3, 2011. In view of the abandoned status of the above identified application, no decision on the petition can be rendered and is dismissed as being moot.

Carl Friedman
Petitioner Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED
MAR 03 2011
OFFICE OF PETITIONS

In re Application of :
SCHNEIDER et al. :
Application No. 11/835,000 : ON APPLICATION FOR
Filed: 08/07/2007 : PATENT TERM ADJUSTMENT
Docket No. 056410-0128 :

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 January 27, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is 695 days, not 419 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).

---

[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.

Christina Tartera 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	11835013
Filing Date	07-Aug-2007
First Named Inventor	Mark Keeton
Art Unit	2861
Examiner Name	HUAN TRAN
Attorney Docket Number	13516.00 C03
Title	SELECTIVE DIRECT THERMAL AND THERMAL TRANSFER PRINTING

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	/Charles Q. Maney/
Name	Charles Q. Maney
Registration Number	58256

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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Decision Date : April 18,2011

In re Application of :

Mark Keeton

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11835013

Filed : 07-Aug-2007

Attorney Docket No : 13516.00 C03

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed April 18,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 2861 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110605

DATE : June 05, 2011

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7732637

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/DANIEL SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

UNITED STATES PATENT AND TRADEMARK OFFICE

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LECLAIRRYAN
290 LINDEN OAKS
SUITE 310
ROCHESTER, NY 14625

MAILED
JUN 30 2011
OFFICE OF PETITIONS

In re Application of
Steven V. Beer, et al.
Application No. 11/835,038
Filed: August 7, 2007
Attorney Docket No.: 19603/5390

ON PETITION

This is a decision on the petition, filed June 16, 2011, to revive the above-identified application under 37 CFR 1.137(b).

The petition is GRANTED.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 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 (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). On June 16, 2011, the present petition was filed. A Notice of Abandonment was subsequently mailed on June 20, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and appeal fee of $270; (2) the petition fee of $81; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1638 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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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
JUN 07 2011
OFFICE OF PETITIONS

In re Application of :
Daniel David Lecloux et al. :
Application No. 11/835,085 : DECISION ON PETITION
Filed: August 7, 2007 :
Attorney Docket No. **UC0213USDIV3** :

This is a decision on the petitions filed June 1, 2011, (a) under the unintentional provisions of 37 CFR 1.137(b) to revive (b) for expedited consideration thereof for 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 Mary Ann Capria 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, Mary Ann Capria desires to be acknowledged as the attorney of record in this application, the appropriate power of attorney documents must be submitted.

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 Restriction Requirement, mailed October 2, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 3, 2008.

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

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

This application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the reply received.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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SEP 21 2011
OFFICE OF PETITIONS

In re Application :
Geoffrey B. Rhoads et al. :
Application No. 11/835,142 : DECISION ON APPLICATION
Filed: August 7, 2007 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 098888-2006 :

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 September 19, 2011. Applicant requests that the determination of patent term adjustment be corrected from 688 to 926 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and is considered in light of the recent court decision in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

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

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

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

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

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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SABINSA CORPORATION
20 LAKE DRIVE
EAST WINDSON NJ 08520

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In re Application of	:	
Muhammed Majeed et al	:	
Application No. 11/835,165	:	ON PETITION
Filed: August 7, 2007	:	
Attorney Docket No.	:	

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-identified application became abandoned for failure to reply in a timely manner to the Office action mailed February 4, 2011, which set a period for reply of one (1) month or thirty (30) days (whichever is later). Four month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly the above-identified application became abandoned on July 5, 2011.

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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1654 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Arent Fox LLP
1050 Connecticut Ave. NW
Washington, DC 20036

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SIMMONS PERRINE MOYER BERGMAN PLC
CITY CENTER SQUARE
1100 - 5TH STREET SUITE 205
CORALVILLE IA 52241

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AUG 25 2011
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In re Application of	:	
Alexander et al.	:	
Application No. 11/835,198	:	DECISION ON PETITION
Filed: August 7, 2007	:	
Attorney Docket No. 01CR096C/KE	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 25, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 5, 2011, as required by the Notice of Allowance and Fee(s) Due mailed April 4, 2011. Accordingly, the date of abandonment of this application is July 6, 2011. A Notice of Abandonment was mailed July 22, 2011.

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

Further, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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SEP 10 2010

OFFICE OF PETITIONS

In re Application of :
Barlow, et al. :
Application No. 11/835,265 : ON APPLICATION FOR
Filed: August 7, 2007 : PATENT TERM ADJUSTMENT
Atty Docket No. 02308/17667US02:

This is in response to the "APPLICATION FOR RECONSIDERATION OF DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR 1.705) filed August 30, 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 six hundred and ninety-two (692) days, not four hundred and eighty-six (486) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

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

---

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/835,300	08/07/2007	Lionel Jacques Garin	SIRF-145US	1216

96769 7590 03/25/2011
Ratner/Prestia
P.O.Box 980
Valley Forge, PA 19482

EXAMINER
TO, TUAN C

ART UNIT	PAPER NUMBER
3663	

MAIL DATE	DELIVERY MODE
03/25/2011	PAPER

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

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

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MAR 2 5 2011

Ratner/Prestia
P.O. Box 980
Valley Forge, PA 19482

In re Application of Garin et al. Application No. 11/835,300 Filed: August 7, 2007 For: SATELLITE BASED POSITIONING METHOD AND SYSTEM FOR COARSE LOCATION POSITIONING	DECISION ON PETITION TO REVIEW RESTRICTION REQUIREMENT UNDER 37 CFR § 1.181

This is in response to applicants' petition filed under 37 CFR 1.181 received November 24, 2010 requesting reconsideration of the restriction requirement mailed May 21, 2010.

The petition is **GRANTED**.

The record indicates that the examiner made a requirement for restriction between group I (claims 1-11 and 23-30) drawn to a process, group II (claims 12-22) drawn to an apparatus and group III (claims 31-41) drawn to a product. Applicants elected group I with traverse in the response received June 18, 2010. The examiner, upon reconsideration, adhered to the restriction requirement and made the requirement final in the Office action mailed August 27, 2010.

Petitioner requests rejoinder of the claims of groups I and III. MPEP 803 provides, in part (emphasis added)

> There are two criteria for a proper requirement for restriction between patentably distinct inventions:
>
> (A) The inventions must be independent (see MPEP § 802.01, § *>806.06<, § 808.01) or distinct as claimed (see MPEP § 806.05 - § *>806.05(j)<); and
>
> (B) **There *>would< be a serious burden on the examiner if restriction is >not< required** (see MPEP § 803.02, **> § 808<, and § 808.02).

A review of claims 1-11 of group I and the claims of group III indicate that the method steps in the groups "mirror" each other in both the independent and dependent claims. Thus the searches required for the features of groups I and III are the same. The

consideration of obviousness between a method and a computer-readable medium containing the same method is not seriously burdensome. Thus there is no serious burden on the examiner, with respect to groups I and III, if restriction is not required. MPEP § 803 clearly indicates 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. Accordingly, the restriction of claims 1-11 and 23-30 from claims 31-41 is hereby withdrawn and the claims rejoined.

It is noted that group I includes claims 23-30; however, in the Office action mailed August 27, 2010, the examiner only addressed claims 1-11. Since the examiner has not recategorized claims 23-30 into a separate and distinct group, claims 23-30 should have been examined with claims 1-11. The application will be promptly returned to the examiner for consideration of claims 23-41 on the merits.

Any questions concerning this decision should be referred to Quality Assurance Specialist Teri Luu at (571) 272-7045.

Katherine Matecki

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

KM/tl: 03/03/11

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WEAVER AUSTIN VILLENEUVE & SAMPSON LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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MAR 10 2011

OFFICE OF PETITIONS

In re Application of :
Alan M. Fogelman et al. :
Application No. 11/835,338 : ON PETITION
Filed: August 7, 2007 :
Attorney Docket No. UCLAP021 / 2007- 007-3 :

This is a decision regarding your request under 37 CFR 1.28. for acceptance of a fee deficiency submission and loss of small entity status filed February 7, 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.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 $2890, under 37 CFR 1.28, is hereby accepted and the petition is **GRANTED**. Status as a small entity has also been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

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600 CONGRESS AVE.
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AUSTIN TX 78701

In re Application of	:	
Wadih Arap, et al.	:	
Application No. 11/835,340	:	DECISION ON PETITION
Filed: August 7, 2007	:	
Attorney Docket No. UTSC:861USD1	:	

This is a decision on the petition, filed July 14, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to reply to the Non-Final Office action mailed December 7, 2009, which set a three (3) month shortened statutory period for reply.

Petitioner asserts that the Office action dated December 7, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

(1) a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would

include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

(2) Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP §711.03(c)(I)(A).

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements.

The docket report provided herewith petition does not include a master docket report for the petitioner's firm, listing replies docketed for a date three months (March 7, 2010) from the mail date of the nonreceived Office action.

Accordingly, absent the required evidence to establish nonreceipt of the Office action of December 7, 2009, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was

discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

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

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

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

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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DEC 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Wadih Arap, et al.	:	
Application No. 11/835,340	:	DECISION ON PETITION
Filed: August 7, 2007	:	
Attorney Docket No. UTSC:861USD1	:	

This is a decision on the renewed petition, filed November 24, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed December 7, 2009, which set a three (3) month shortened statutory period for reply.

Petitioner asserts that the Office action dated December 7, 2010 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received.

The showing required to establish nonreceipt of an Office communication must include:

(1) a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

(2) Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP §711.03(c)(I)(A).

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

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 1643 for re-mailing the Office action of December 7, 2009. The period for reply will run from the mailing date of the Office action.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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MERCHANT & GOULD (MICROSOFT)
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MINNEAPOLIS, MN 55402-0903

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In re Application of :
R. Donald Thompson, et al. :
Application No.: 11/835,389 : ON PETITION
Filed: August 7, 2007 :
Attorney Docket No.: 14917.666US01 :

This is a decision on the petition, filed February 8, 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, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2626 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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SAN FRANCISCO CA 94111-3834

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OCT 18 2010
OFFICE OF PETITIONS

Patent No. 7,776,593	:	
Issue Date: August 17, 2010	:	
Application No. 11/835,391	:	ON PETITION
Filed: August 7, 2007	:	
Attorney Docket No. 02307E-173810US	:	

This is a decision on the petition filed September 1, 2010, under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

A petition under 37 CFR 3.81(b) requires a fee of $130. As authorized this fee will be charged to petitioner's deposit account.

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

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCDONNELL BOEHNEN HULBERT &
BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED
SEP 26 2011
OFFICE OF PETITIONS

In re Application :
Gocke, et al. :
Application No. 11/835,398 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: August 7, 2007 :
Dkt. No.: 97-078-Y :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed September 22, 2011.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 616 days, not 321 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the

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

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

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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

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DEC 19 2011
OFFICE OF PETITIONS

LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON KY 40550-0999

In re Application of	:	
Theresa Joy L. Tan et al.	:	
Application No. 11/835,433	:	ON PETITION
Filed: August 8, 2007	:	
Attorney Docket No.: 2006-0532.03	:	

This is a decision on the petition filed December 8, 2011 under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

A Restriction Requirement mailed on January 21, 2011 set the longer of one month or thirty days as the period for reply. No response to the January 21, 2011 Restriction Requirement having been timely filed, the application became abandoned February 23, 2011. Accordingly, a Notice of Abandonment was mailed August 5, 2011.

The petition fee in the amount of $1860.00 has been charged to the credit card provided.

The response to the Restriction Requirement filed December 8, 2011 will be referred to Technology Center 2861 for further processing.

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 Director may require additional information where there is a question whether the delay was unintentional; and

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

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MAILED
MAY 24 2011
OFFICE OF PETITIONS

PAUL W. MARTIN
NCR CORPORATION, LAW DEPT.
3097 SATELLITE BLVD., 2nd FLOOR
DULUTH GA 30096

In re Application of	:	
Nathaniel C. Herwig, et al.	:	
Application No. 11/835,465	:	DECISION ON PETITION
Filed: August 8, 2007	:	
Attorney Docket No. 500.0351 (13310)	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 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 October 24, 2010. The Notice of Abandonment was mailed March 17, 2011.

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

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

This application is being referred to Technology Center AU 2887 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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PIETRAGALLO GORDON ALFANO
BOSICK & RASPANTI, LLP
ONE OXFORD CENTRE, 38TH FLOOR
301 GRANT STREET
PITTSBURGH PA 15219-6404

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Application of :
Lu, et al. :
Application No. 11/835,476 :
Filed: 8 August, 2007 :
Attorney Docket No.: SEAG-79348/STL13529 :

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 29 June, 2010, to accept an unintentiona delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed application.

The petition is **DISMISSED**.

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

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

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

On deposit on 8 August, 2007, the instant application did not include a claim of priority to Non-Provisional Application No. 11/336,799, filed 20 January, 2007, which issued as Patent No. 7,678,476 on 16 March, 2010.

Application No. 11/835,476

The petition filed herein on 29 June, 2010, states that it is Petitioner's intent, *inter alia*, to make a priority claim to Application No. 11/336,799, which, Petitioner states in the amendment submitted, "is hereby incorporated by reference."

The application on deposit did not state such an incorporation by reference; thus the post-deposit attempt to incorporate by reference is improper.

Thus, the petition lacks item (1), above.

Because the record does not support Petitioner's attempt to incorporate by reference, the amendment fails to comply with the provisions of 37 C.F.R. §1.78(a)(2)(i) and is therefore unacceptable.

Accordingly, before the petition under 37 C.F.R. §1.78 can be granted, a renewed petition under 37 C.F.R. §1.78 and either an Application Data Sheet or a substitute amendment (complying with 37 C.F.R. §1.121 and 37 C.F.R. §1.76(b)(5)) correcting the priority claims made are required.

Questions concerning this matter may be directed to John Gillon at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center AU 1785 for further processing in due course.

Chris Bottorf
Supervisor
Office of Petitions

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PIETRAGALLO GORDON ALFANO
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ONE OXFORD CENTRE, 38TH FLOOR
301 GRANT STREET
PITTSBURGH PA 15219-6404

MAILED
JUN 21 2011
OFFICE OF PETITIONS

In re Application of Lu, et al. Application No. 11/835,476 Filed: 8 August, 2007 Attorney Docket No.: SEAG-79348/STL13529	: : : : :	DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 7 February, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed application.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 C.F.R. 1.78(a)(3) should not be construed as meaning that the application is entitled

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

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

This application is being forwarded to the examiner of Technology Center/AU 1785 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the above-noted, prior-filed applications.

Any questions concerning this decision on petition may be directed to John J. Gillon, Jr. attorney, at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Director, Office of Petitions
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
11/835,476	08/08/2007	1785	1500	SEAG-79348/STL13529	22	5

CONFIRMATION NO. 1492

CORRECTED FILING RECEIPT

35810
PIETRAGALLO GORDON ALFANO BOSICK & RASPANTI, LLP
ONE OXFORD CENTRE, 38TH FLOOR
301 GRANT STREET
PITTSBURGH, PA 15219-6404

OC000000048297750

Date Mailed: 06/20/2011

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)
Bin Lu, Pittsburgh, PA;
Ganping Ju, Sewickley, PA;

Assignment For Published Patent Application
Seagate Technology LLC, Scotts Valley, CA

Power of Attorney: The patent practitioners associated with Customer Number 35810

Domestic Priority data as claimed by applicant
This application is a CIP of 11/336,799 01/20/2006 PAT 7,678,476

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.)

Permission to Access - A proper **Authorization to Permit Access to Application by Participating Offices** (PTO/SB/39 or its equivalent) has been received by the USPTO.

If Required, Foreign Filing License Granted: 08/05/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/835,476**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Laminated Exchange Coupling Adhesion (LECA) Media For Heat Assisted Magnetic Recording

Preliminary Class

428

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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P.O. BOX 7037
ATLANTA GA 30357-0037

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Crafton et al.	:	DECISION ON PETITION TO
Application Number: 11/835529	:	WITHDRAW HOLDING OF
Filing Date: 08/08/2007	:	ABANDONMENT
Attorney Docket Number: C152	:	
1092.2	:	

This is a decision on the "PETITION FOR WITHDRAWAL OF ABANDONMENT PURSUANT TO 37 CFR § 1.181(a)," filed on January 21, 2011, which is treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

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

A Notice of Abandonment was mailed on December 27, 2010, stating that the application was abandoned in view of the decision by the Board of Patent Appeals and Interferences (Board decision) rendered on November 23, 2010, and because the period for seeking court review of the decision has expired and there are no allowed claims.

Petitioners assert that they had until January 23, 2011, the date two months after the date the Board decision was mailed, to file a timely response, and that a continuation of the subject application was filed on January 21, 2011.

A review of the record reveals that a Board Decision affirming the examiner was mailed on November 23, 2011, and that continuing Application No. 13/010,891 was filed on January 21, 2011.

MPEP 1214.06 states that the time for seeking review of a decision of the Board by the Court of Appeals for the Federal Circuit or the U.S. District Court for the District of Columbia is the same for both tribunals, that is, 2 months, or 2 months with the extension provided by 37 CFR 1.304 in the event a

request for rehearing is timely filed before the Board, or as extended by the Director.

Accordingly, the date of abandonment is January 24, 2011, the day after the date two (2) months after the Board Decision was mailed.

The petition is granted to the extent that the date of abandonment in Office PALM records will be corrected to **January 24, 2011** in order to maintain copendency with continuation Application No. 13/010,891 filed on January 21, 2011.

The subject application will be regard as abandoned in favor of the continuing application.

The application is referred to Technology Center Art Unit 1733 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

PTO/SB/425 (03-11)

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

Nonprovisional Application Number or Control Number (if applicable): 11/835,544	Patent Number (if applicable):
First Named Inventor: Satoshi USUI	Title of Invention: High-Pressure Fuel Supply Pump

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Signature /Richard R. Diefendorf/	Date 2011/07/06
Name (Print/Typed) Richard R. Diefendorf	Practitioner Registration Number 32,390

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.

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

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

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

MAILED
JUL 07 2011
OFFICE OF PETITIONS

In re Application of	:	
Usui et al.	:	
Application No. 11/835,544	:	DECISION ON PETITION
Filed: August 8, 2007	:	
Attorney Docket No. 056208.59359US	:	

This is a decision on the request filed July 5, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on January 12, 2011. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

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

This application is being referred to the Technology Center, Art Unit 3746 for re-mailing the Office action of January 12, 2011. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BERESKIN AND PARR LLP/S.E.N.C.R.L., s.r.1
40 KING STREET WEST
BOX 401
TORONTO ON M5H 3Y2 CA CANADA

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Application of	:	
James Samsoondar	:	
Application No. 11/835,631	:	DECISION DISMISSING PETITION
Filed: August 8, 2007	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No.10592-13	:	

This is a decision on the petition under 37 CFR 1.313(c)(3), filed October 4, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT.**

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue.** (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until October 5, 2010, the date upon which the above-identified application issued as U.S. Patent No. 7,807,450. Since the case has now issued, the petition to withdraw from issue cannot be granted.

Applicant is reminded to note MPEP § 1308.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INSULET CORPORATION
9 OAK PARK DRIVE
BEDFORD, MA 01730

MAILED

AUG 26 2011

OFFICE OF PETITIONS

In re Application of
Robert Campbell, et al.
Application No. 11/835,633
Filed: August 8, 2007
Attorney Docket No. INSL0177

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 27, 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.

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 application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 1, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 2, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, 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 until otherwise instructed.

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 3715 for appropriate action by the Examiner in the normal course of business on the reply received July 27, 2011.

April M. Wise
Petitions Examiner
Office of Petitions

cc: KEVIN J. CARROLL
GROSSMAN, TUCKER, PERREAULT
& PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER, NH 03101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/20/11

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 11835670 Patent No.: 7632852

CofC mailroom date: 07/12/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

Comments: All the changes have been approved.

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

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
www.uspto.gov

OSTROLENK FABER LLP
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

MAILED

OCT 26 2011

OFFICE OF PETITIONS

In re Application of	:	
Shinji Himori, et al.	:	
Application No.: 11/835,743	:	ON PETITION
Filed: August 8, 2007	:	
Attorney Docket No.: P/2850-189	:	

This is a decision on the petition, filed October 25, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

The application is being referred to Technology Center AU 2629 for further processing of the request for continued examination and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MERCK
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

MAILED
JAN 03 2011
OFFICE OF PETITIONS

In re Patent No. 7,851,181	:	DECISION
Wang et al.	:	DISMISSING REQUEST FOR
Issue Date: 12/14/2010	:	RECONSIDERATION OF PATENT
Application No. 11/835,791	:	TERM ADJUSTMENT
Filed: 08/08/2007	:	UNDER 37 CFR 1.705(d)
Attorney Docket No. OC01533KQ2 US	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)", filed December 20, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one hundred ninety-seven (197) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. 154(b).

Patentee is given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

In the present petition, patentee asserts:

> The Patent Term Adjustments tab on PAIR states that 40 days of adjustment were deducted from the original 197 days indicated in the Notice of Allowance due because

"Supplemental Papers - Oath or Declaration" were filed on November 5, 2010. Thus, 197 days - 40 days = 157 days.

The 40 day deduction is not in compliance with 37 C.F.R. § 1.704(c) (8) because the Supplemental Oath was expressly requested by the Examiner in the Notice of Allowance. This section of the Rules provides as follows (emphasis added):

> (8) Submission of a supplemental reply or other paper, <u>other than a supplemental reply or other paper expressly requested by the examiner</u>, after a reply has been filed, in which case the period of adjustment set forth in Sec. 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

The Notice of Allowance states under the Examiner's Comment, paragraph 1 (Oath/Declaration) that a "new oath or declaration...is required". In response, the Applicants filed the new Oath with the Issue Fee on November 5, 2010. Since the Examiner clearly requested the supplemental paper, deduction of the 40 days of PTA was not appropriate. The Applicants request that the 40 days of PTA be credited back to the Patent.

Petition, pp. 1-2.

The Office has considered patentee's argument, but does not find it persuasive. The Office has determined that the entry of the period of reduction of 40 days for the filing of the supplemental declaration on November 5, 2010, after the mailing of the Notice of Allowance is warranted. Patentee acknowledges submitting the supplemental declaration after the mailing of the Notice of Allowance. Patentee is advised that for the purposes of calculating patent term adjustment, the filing of a supplemental declaration after the mailing of a Notice of Allowance is a proper basis for reduction of patent term adjustment under 37 CFR 1.704(c)(10) (not 1.704(c)(8) as suggested by patentee).

The patent term adjustment provisions of 35 U.S.C. 154(b) provide that "[t]he Director shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application." 35 U.S.C. 154(b)(2)(C)(iii). Therefore, pursuant to the authority of 35 U.S.C. 154(b)(2)(C)(iii), the Office has prescribed 37 CFR 1.704(c)(10), establishing 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;

By Notice entitled *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001), and restated in the Section 2732 of the Manual of Patent Examining Procedure, the Director set forth examples of papers deemed to cause interference and delay in the patent issue process. Oaths and declarations are specifically identified in the Notice and MPEP as papers filed after allowance of an application that delay the Office's ability to process an application for a patent because the Office does not wait until payment of the issue fee to begin the patent issue process. As a result, 37 CFR 1.704(c)(10) does not distinguish between papers that are and are not required by the Office. The Notice and MPEP clearly provide that the filing of any oath or declaration after allowance will be treated as a failure to engage in reasonable efforts to conclude prosecution and shall result in a reduction of patent term adjustment.

In this instance, it is undisputed that a supplemental declaration was filed on November 5, 2010, after the mailing of

the Notice of Allowance. Accordingly, the patent term adjustment was properly reduced pursuant to 37 CFR 1.704(c)(10) by the lesser period of 40 days, beginning on the date the supplemental declaration was filed, November 5, 2010, and ending on the date the patent issued, December 14, 2010. Accordingly, the patent term adjustment is 157 days.

In view thereof, no change will be made in the revised determination of patent term adjustment at the time of the issuance of the patent.

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 the 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) 272-3211.

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

Currie Kendall PLC
6024 Eastman Ave
Midland MI 48640-2518

MAILED

AUG 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Daniel Benjamin Jakubowski	:	
Application No. 11/835,820	:	DECISION ON PETITION
Filed: August 8, 2007	:	TO WITHDRAW
Attorney Docket No. CK2010-012	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed June 25, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Stanley K. Hill, no longer has power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Stanley Hill
5950 Grand Pavilion Way, #311
Alexandria, VA 22303

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.
11/835,856	08/08/2007	Claude L. BERTIN	0112020.00228US6	2177

23483 7590 09/01/2011
WILMERHALE/BOSTON
60 STATE STREET
BOSTON, MA 02109

EXAMINER
SUCH, MATTHEW W

ART UNIT	PAPER NUMBER
2891	

NOTIFICATION DATE	DELIVERY MODE
09/01/2011	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):

teresa.carvalho@wilmerhale.com
whipusptopairs@wilmerhale.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

WILMERHALE/BOSTON
60 State Street
Boston, MA 02109

In re Application of: Bertin, et al Serial No.: 11/835,856 Filed: August 8, 2007	PETITION FOR CORRECTION OF INVENTORSHIP UNDER 37 CFR § 1.48(a)

This is a decision on the petition filed 13 September 2010 to correct inventorship under 37 CFR 1.48 (a).

The petition is GRANTED.

In view of the papers filed 13 September 2010 it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a). The inventorship of this application has been changed by adding:

Jonathan W. Ward
Darren K. Brock

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

/Kiesha Bryant/

Kiesha R. Bryant
Supervisory Patent Examiner,
Art Unit 2891

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Leason Ellis LLP
One Barker Avenue
Fifth Floor
White Plains NY 10601-1526

MAILED

FEB 01 2012

OFFICE OF PETITIONS

In re Application of
Chiu
Application No. 11/835,862
Filed: August 8, 2007
Atty. Dkt. No.: 20294/0207709-US0

: DECISION ON PETITION

This decision is in response to the petition under 37 CFR 1.137(b), filed January 18, 2012.

The petition is **GRANTED**.

This application became abandoned June 17, 2011 for failure to timely submit a proper reply in response to the non-final Office action mailed March 16, 2011. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed November 21, 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 above-identified application has been carefully reviewed and found in compliance with the requirements set forth above.

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 3657 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/03/11

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction for Appl. No.: 11835944 Patent No.: 7804463

CofC mailroom date: 10/24/11

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: **Should the changes to claim 14, line 47 be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☑ **Approved** — **All** changes apply.

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

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

Comments: _____

Douglas W. Owens — 2821

SPE — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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J.C. PATENTS
SUITE 250
4 VENTURE
IRVINE CA 92618

MAILED

SEP 14 2011

OFFICE OF PETITIONS

In re Patent No. 7,722,804 :
Issue Date: May 25, 2010 :
Application No. 11/835,993 : ON PETITION
Filed: August 8, 2007 :
Attorney Docket Number: SHTD02-CA

This is a decision on the petition, filed February 8, 2011, under 37 CFR 1.182, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about May 25, 2010, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent. Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

As the petition and a fee of $400.00 has been received, the petition is granted.

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

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

Telephone inquiries concerning this decision may be directed to the undersigned Senior Petitions Attorney at (571) 272-3212. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Office of Data Management at (703) 308-9250.

/Patricia Faison-Ball/

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Ollie Person (Fax – (571) 270-9764)
Kimberly Terrell (Fax – (571) 270-9958)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/836,057	08/08/2007	Manuel Lynch	PERMLT.029C1	2523

20995 7590 11/09/2010
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER
ZETTL, MARY E

ART UNIT	PAPER NUMBER
2875	

NOTIFICATION DATE	DELIVERY MODE
11/09/2010	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):

jcartee@kmob.com
efiling@kmob.com
eOAPilot@kmob.com

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

In re Application of: Manuel Lynch et al. Serial No.: 11/836,057 Filed: August 8, 2007 For: LIGHTING APPARATUS	: : : : : :	DECISION *SUA SPONTE* VACATING OFFICE ACTION

This is a decision, *sua sponte*, vacating the Notice of Abandonment mailed August 24, 2010 in the above-identified application.

A reply to a non-final Office action was filed on June 25, 2010. A notice of Abandonment was mailed on August 24, 2010. On August 25, 2010, applicant contacted the examiner of record to inform the USPTO that the Notice of Abandonment was mailed in error. A review of the file record reveals that the Notice of Abandonment was clearly mailed in error and must be vacated.

Although no petition or request has been filed, the holding of abandonment is hereby withdrawn and the Notice of Abandonment of August 24, 2010 vacated. No reply from the applicant is necessary at this time. Inconvenience to the applicant is regretted.

The application file is being returned to the examiner of record where it awaits further examination in its turn.

Any inquiry regarding this decision should be directed to Sandra O'Shea, Supervisory Patent Examiner, at (571) 272-2378.

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

hp

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/836,058	08/08/2007	Fausto Jose Espinal	223997 (553-1468)	2524

45436 7590 11/15/2011
DEAN D. SMALL
THE SMALL PATENT LAW GROUP LLP
225 S. MERAMEC, STE. 725T
ST. LOUIS, MO 63105

EXAMINER
WOODS, TERESA S

ART UNIT	PAPER NUMBER
3686	

NOTIFICATION DATE	DELIVERY MODE
11/15/2011	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):

Docket@splglaw.com

OFFICE ACTION

Petition Decision - 37 CFR § 1.84(a)(2)

1. This is a decision on the Petition to Accept Color Drawings under 37 CFR § 1.84(a)(2), submitted by applicant on October 15, 2007.

2. The petition is **DENIED**.

3. Applicant petitions for the Office to accept the color drawing versions of four drawings, labeled as Figures 4-7, which were submitted on October 15, 2007 as replacement sheets for the black and white versions of those figures filed with the original application papers on August 8, 2007, and states that those figures illustrate "histological tissue cross sections," and further states that color photographs are the only practical medium for illustration of such subject matter.

4. According to MPEP § 608.02 and 37 CFR § 1.84, a grantable petition for acceptance of color drawings under 37 CFR § 1.84(a)(2) must explain why the color drawings are necessary.

5. Additionally, a grantable petition for acceptance of color drawings under 37 CFR § 1.84(a)(2) must also include each of the following:

(i) The fee set forth in 37 CFR § 1.17(h);

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

(iii) An amendment to the specification to insert (unless the specification contains or

has been previously amended to contain) the following language as the first paragraph of the brief description of the drawings:

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

6. Applicant's petition meets all of the above requirements except for item (iii), the amendment to the specification to include the required paragraph.

7. Accordingly, the petition is **DENIED** and the application has been returned to the examiner to await a response from applicant to the outstanding Office action of August 5, 2011.

Conclusion

8. Any inquiry concerning this communication should be directed to the art unit supervisor, **Jerry O'Connor**, whose telephone number is **(571) 272-6787**, and whose facsimile number is (571) 273-6787.

GJOC
November 8, 2011

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3686

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 13 2010
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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Application of	:	
Richard Chin et al.	:	
Application No. 11/836,087	:	DECISION ON PETITION
Filed: August 8, 2007	:	TO WITHDRAW
Attorney Docket No. 34997-501	:	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 12, 2010.

The request is **NOT APPROVED.**

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

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has ownership in this application, then a 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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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

MAILED
FEB 22 2011
OFFICE OF PETITIONS

In re Application of :
Sulkin et al. :
Application No. 11/836,184 : ON PETITION
Filed: August 9, 2007 :
Attorney Docket No. 148235 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 9, 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 10, 2009. A Notice of Abandonment was mailed December 18, 2009.

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

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

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

This application is being referred to Technology Center 3769 for further examination on the merits.

A Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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ADE & COMPANY INC.
2157 Henderson Highway
WINNIPEG MB R2G1P-9 CA CANADA

MAILED
JAN 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Frank Burczynski et al.	:	
Application No. 11/836,232	:	DECISION ON PETITION
Filed: August 9, 2007	:	
Attorney Docket No. 86231-102 MRW	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, April 1, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 2, 2010. A Notice of Abandonment was mailed on October 28, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination, with the required fee of $405, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 1613 for appropriate action by the Examiner in the normal course of business on the RCE December 21, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

MAILED
DEC 16 2010
OFFICE OF PETITIONS

In re Application of
Chiang
Application No. 11/836,254
Filed: August 9, 2007
Attorney Docket No. 250320-1200

DECISION ON PETITION
UNDER 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.55(c), filed November 22, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Application No. TW 96104489, filed February 7, 2007.

The petition is **GRANTED**.

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

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

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

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

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

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

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

This application was filed on August 9, 2007, which is after November 29, 2000 and within 12 months of February 7, 2007 (the filing date of the foreign application to which benefit is now being claimed). On November 22, 2010, a supplemental application data sheet which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,410.00 has been submitted. Lastly, petitioner has provided an adequate statement of unintentional delay.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

This application is being referred to Technology Center AU 2174 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 matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Chris Bottorff

Chris Bottorff
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
11/836,254	08/09/2007	2174	1150	250320-1200	23	2

CONFIRMATION NO. 2903

CORRECTED FILING RECEIPT

24504
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

OC000000044878840

Date Mailed: 12/09/2010

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

Applicant(s)

Ming-Hung Chiang, Taipei City, TAIWAN;

Assignment For Published Patent Application

CYBERLINK CORP., Shindian City, TAIWAN

Power of Attorney: The patent practitioners associated with Customer Number 24504

Domestic Priority data as claimed by applicant

Foreign Applications

TAIWAN 96104489 02/07/2007

If Required, Foreign Filing License Granted: 08/22/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/836,254**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Font Changing Method for Video Subtitle

Preliminary Class

715

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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PRETI FLAHERTY
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ONE CITY CENTER
PORTLAND ME 04112-9546

MAILED

DEC 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Wenqi HU et al.	:	
Application No. 11/836,364	:	DECISION ON PETITION
Filed: August 09, 2007	:	
Attorney Docket No. MET-041US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice Requiring Excess Claim Fees mailed, December 16, 2009, which set a time period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 17, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the required fees, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice Requiring Excess Claim Fees of December 16, 2009 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 1652 for appropriate action by the Examiner in the normal course of business on the reply received.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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

PTO/SB/425 (03-11)

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

Nonprovisional Application Number or Control Number (if applicable): 11/836,403	Patent Number (if applicable):
First Named Inventor: S. IMAMURA et al	Title of Invention: IMAGING DEVICE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):
   a. The maintenance fee payment was required to have been paid after March 10, 2011.
   b. A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).
   c. The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
   d. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.
   e. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).
   f. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. *See* 35 U.S.C 41(c).
   g. This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:
   a. The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.
   b. The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
   c. The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.
   d. This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature /John R. Mattingly/	Date May 31, 2011
Name (Print/Typed) John R. Mattingly	Practitioner Registration Number 30,293

***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.

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

Commissioner for Patents
United States Patent and Trademark Office
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MATTINGLY & MALUR, PC
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

MAILED

JUN 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Imamura et al.	:	
Application No. 11/836,403	:	DECISION ON PETITION
Filed: August 9, 2007	:	
Attorney Docket No. HPTA-5920	:	

This is a decision on the request filed May 31, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on March 7, 2011. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

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

This application is being referred to the Technology Center, Art Unit 1734 for re-mailing the Office action of March 7, 2011. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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

PTO/SB/425 (03-11)

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

Nonprovisional Application Number or Control Number (if applicable):	Patent Number (if applicable):
11/836,427	
First Named Inventor:	Title of Invention:
Satoru Almi	Input Apparatus

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 3/22/11
Name (Print/Typed) Scott W. Brim	Practitioner Registration Number 51,500

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

MAILED
OCT 15 2010
OFFICE OF PETITIONS

In re Patent No. **7,789,832**	:	
Issue Date: September 7, 2010	:	
Application No. 11/836,469	:	NOTICE UNDER 37 CFR 1.28(C)
Filed: August 9, 2007	:	
Attorney Docket No. **313242US8**	:	

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.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KACVINSKY DAISAK PLLC
C/O CPA GLOBAL
P.O. BOX 52050
MINNEAPOLIS MN 55402

MAILED
MAR 01 2011
OFFICE OF PETITIONS

In re Application of :
Ahmadi, et al. :
Application No. 11/836,495 :
Filed: 9 August, 2007 :
Attorney Docket No. P26049/1020P26049 :

DECISION

This is a decision on the petition filed on 18 January, 2011, for revival of an application abandoned due to unavoidable delay pursuant to 37 C.F.R. §1.137(a) .

The petition pursuant to 37 C.F.R. §1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. 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(a)."

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

As to Allegation of
Unavoidable Delay

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

Petitioner does not appear to have satisfied—and may be unable to satisfy—the showing requirements (as to unavoidable delay) under the Rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unavoidable delay and a petition pursuant to 37 C.F.R. §1.137(a).

BACKGROUND

Petitioner failed to reply timely and properly to the non-final Office action mailed 9 June, 2010, with reply due absent extension of time on or before 9 September, 2010.

The application went abandoned by operation of law after midnight 9 September, 2010.

The Office mailed the Notice of Abandonment on 22 December, 2010.

On 18 January, 2011, Petitioner filed, *inter alia*, a petition with fee, averring unavoidable delay pursuant to 37 C.F.R. §1.137(a), with reply in the form of an amendment, and an averment that the Office, though a message from Mr. Tony Uranga (Mr. Uranga) notified Petitioner on 9 June, 2010—the date of the mailing of the Office action—that the Email Notification of the Office action may not have listed the Office action itself. However, a review of the record clearly evidences that the Email of 6 June, 2010, in fact did list the Office action ("CTNF") and it was uploaded at that time. It appears that Petitioner took Mr. Uranga's message as an opportunity to ignore the non-final Office action mailed on 9 June, 2010. Petitioner's showing is not within the constraints of the diligence requirements envisioned in *Pratt*.[1]

It appears that Petitioner's only alternative may be to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unavoidable delay and a petition pursuant to 37 C.F.R. §1.137(a).

Thus, it is noted that the guidance in the Commentary at MPEP §711.03(c)(II) for the showing required pursuant to 37 C.F.R. §1.137(a) provides in pertinent part:

***

> **...Unavoidable Delay**
>
> *As discussed above, "unavoidable" delay is the epitome of "unintentional" delay. Thus, an intentional delay precludes revival under 37 C.F.R..§137(a) ("unavoidable" delay) or 37 C.F.R. §1.137(b) ("unintentional" delay). See* Maldague, *10 USPQ2d at 1478.*
>
> *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:*

[1] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887))

> 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* Pratt, *1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also* Winkler v. Ladd, *221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (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):*

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

> *(A)the error was the cause of the delay at issue;*
>
> *(B)there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and*
> *(C)the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.*

See In re Egbers, *6 USPQ2d 1869; 1872 (Comm'r Pat. 1988),* rev'd on other grounds sub nom., Theodor Groz & Sohne & Ernst Bechert Nadelfabrik KG v. Quigg, *10 USPQ2d 1787 (D.D.C. 1988);* In re Katrapat, *6 USPQ2d 1863, 1867-68 (Comm'r Pat. 1988). For example, where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in*

a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:

> *(A)the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;*
>
> *(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.*

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, *673 F. Supp. at 317, 5 USPQ2d at 1132;* Vincent v. Mossinghoff, *230 USPQ 621, 624 (D.D.C. 1985);* Smith v. Diamond, *209 USPQ 1091 (D.D.C. 1981);* Potter v. Dann, *201 USPQ 574 (D.D.C. 1978);* Ex parte Murray, *1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 C.F.R. 1.116 and 1.135(b) are manifest* that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action.

Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 C.F.R. §1.8 or §1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 C.F.R. §1.8 and §1.10 does not constitute "unavoidable" delay. See *Krahn*, 15 USPQ2d at 1825. Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See *In re Sivertz*, 227 USPQ 255, 256 (Comm'r Pat. 1985).

35 U.S.C. §133 and §151 each require a showing that the "delay" was "unavoidable," which 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 until the filing of a petition to revive. See *In re Application of Takao*, 17 USPQ2d 1155 (Comm'r Pat. 1990).

The burden of continuing the process of presenting a grantable petition in a timely manner likewise remains with the applicant until the applicant is informed that the petition is granted. *Id.* at 1158. Thus, an applicant seeking to revive an "unavoidably" abandoned application must cause a petition under 37 C.F.R. §1.137(a) to be filed without delay (i.e., promptly upon becoming notified, or otherwise becoming aware, of the abandonment of the application).
An applicant who fails to file a petition under 37 C.F.R. §1.137(a) "promptly" upon becoming notified, or otherwise becoming aware, of the abandonment of the application will not be able to show 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(a) was unavoidable. The removal of the language in 37 C.F.R. §1.137(a) requiring that any petition thereunder be "promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment" should **not** be viewed as: (A) permitting an applicant, upon becoming notified, or otherwise becoming aware, of the abandonment of the application, to delay the filing of a petition under 37 C.F.R. §1.137(a); or (B) changing (or modifying) the result in *In re Application of S*, 8 USPQ2d 1630 (Comm'r Pat. 1988), in which a petition under 37 C.F.R. §1.137(a) was denied due to the applicant's deliberate deferral in filing a petition under 37 C.F.R. § 1.137. An applicant who deliberately chooses to delay the filing of a petition under 37 C.F.R. §1.137 (as in *Application of S*, 8 USPQ2d at 1632) will not be able to show 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(a)] was unavoidable" or even make an appropriate 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."

The dismissal or denial of a petition under 37 C.F.R. §1.137(a) does not preclude an applicant from obtaining relief pursuant to 37 C.F.R. 1. §137(b) on the basis of unintentional delay (unless the decision dismissing or denying the petition under 37 C.F.R. 1.137(a) indicates otherwise). In such an instance, a petition under 37 C.F.R. 1.137(b) may be filed accompanied by the fee set forth in 37 C.F.R. §1.17(m), the required reply, 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 any terminal disclaimer required by 37 C.F.R. §1.137(c).
Form PTO/SB/61 or PTO/SB/61PCT may be used to file a petition for revival of an unavoidably abandoned application.

***

Petitioner has failed to satisfy the requirements under the Rule and discussed above.

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

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

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

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).

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[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] 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).

As to Allegations of
Unavoidable Delay

The requirements under 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee.

As of this writing it appears that Petitioner has failed to satisfy the requirements under the Rule.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(a) is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c and http://www.uspto.gov/web/forms/sb0064.pdf)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the proper reply, the petition fee, 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 a terminal disclaimer and fee where appropriate. (The statement is in the form available online.)

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

Application No. 11/836,495

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

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

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

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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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KACVINSKY DAISAK PLLC
C/O CPA GLOBAL
P.O. BOX 52050
MINNEAPOLIS MN 55402

MAILED
JUN 01 2011
OFFICE OF PETITIONS

In re Application of	:	
Ahmadi, et al.	:	
Application No. 11/836,495	:	DECISION
Filed: 9 August, 2007	:	
Attorney Docket No. P26049/1020P26049	:	

This is a decision on the petition filed on 9 March, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

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

As to the Allegations
of Unintentional Delay

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

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

Petitioner failed to reply timely and properly to the non-final Office action mailed 9 June, 2010, with reply due absent extension of time on or before 9 September, 2010.

The application went abandoned by operation of law after midnight 9 September, 2010.

The Office mailed the Notice of Abandonment on 22 December, 2010.

On 18 January, 2011, Petitioner filed, *inter alia*, a petition with fee, averring unavoidable delay pursuant to 37 C.F.R. §1.137(a), with reply in the form of an amendment, and an averment that the Office, though a message from Mr. Tony Uranga (Mr. Uranga) notified Petitioner on 9 June, 2010—the date of the mailing of the Office action—that the Email Notification of the Office

action may not have listed the Office action itself. However, a review of the record clearly evidences that the Email of 6 June, 2010, in fact did list the Office action ("CTNF") and it was uploaded at that time. It appears that Petitioner took Mr. Uranga's message as an opportunity to ignore the non-final Office action mailed on 9 June, 2010. Petitioner's showing is not within the constraints of the diligence requirements envisioned in *Pratt*.[1] The petition was dismissed on 1 March, 2011.

On 9 March, 2011, Petitioner filed, *inter alia*, a petition with fee pursuant to 37 C.F.R. §1.137(b), and a reply in the form of an amendment, and made the statement of unintentional delay.

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

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

STATUTES, REGULATIONS AND ANALYSIS

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

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

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[1] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887))

[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 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).

[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 the Technology Center/AU 2464 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 attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALSTON & BIRD, LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

MAILED

FEB 22 2011

OFFICE OF PETITIONS

In re Application of	:	
Meany et al	:	
Application No. 11/836,496	:	DECISION ON PETITION
Filed: August 9, 2007	:	
Attorney Docket No. 038190/329420	:	
	:	

This is a decision on the petition, filed December 30, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition to withdraw the holding of abandonment is **GRANTED**.

This above-identified application became abandoned for failure to timely file a response to a final Office Action which was mailed on June 10, 2010. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was filed on November 9, 2010 along with a two month extension of time. An advisory action was mailed on November 29, 2010 indicating that the amendment filed on November 9, 2010 failed to place the application in condition for allowance. A Notice of Abandonment was mailed on December 22, 2010.

In the present petition, petitioner contends a timely reply in the form of a Notice of Appeal and an additional one month for a total of three month extension of time was submitted on December 9, 2010.

A review of the record shows that a Notice of Appeal and additional one month request for extension of time was received on December 9, 2010.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision. See 37 CFR §§ 41.31 and 41.37.

The application is being referred to Art Unit 2461 for further processing.

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

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHARLOTTE NC 28280-4000

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OCT 31 2011

OFFICE OF PETITIONS

In re Application of	:	
Meany et al	:	
Application No. 11/836,496	:	DECISION ON PETITION
Filed: August 9, 2007	:	
Attorney Docket No. 038190/329420	:	
	:	

This is a decision on the petition, filed August 17, 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**.

The February 22, 2011 decision provided applicant with a reply period starting from the mail date of the petition decision.

It is noted that a request for continued examination and submission requirement pursuant to 37 CFR 1.114 were submitted on September 22, 2011.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application is being referred to Art Unit 2461 for further processing.

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

/Charlema Grant/
Charlema Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2-24-11

TO SPE OF : ART UNIT 3753

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/836,570 Patent No.: 7,878,214

CofC mailroom date: 2-17-11

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

FOR IFW FILES: Check fig.

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

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

FOR PAPER FILES:

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

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

Ennis Young
Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: _____

/Stephen Hepperle/ — **SPE**

3753 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BARNES & THORNBURG LLP
P.O. Box 2786
CHICAGO IL 60690-2786

MAILED
JAN 26 2011
OFFICE OF PETITIONS

In re Application of
Schroetlin
Application No. 11/836,671
Filed: August 9, 2007
Attorney Docket No. 27726-106063

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 30, 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 within three months of the mail date of the August 27, 2010 Notice of Allowance and Fee(s) Due. Accordingly, the date of abandonment of this application is November 28, 2010. A Notice of Abandonment was mailed on 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 payment of the issue fee of $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

JUN 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Malan De Villiers et al.	:	DECISION ON PETITION
Application No. 11/836,684	:	TO WITHDRAW
Filed: August 9, 2007	:	FROM RECORD
Attorney Docket No. **022031-003500US**	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed May 18, 2011.

The request is **NOT APPROVED**.

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

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

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

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

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WESTERNGECO, LLC
10001 RICHMOND AVENUE
KEVIN MCENANEY, IP DEPT
HOUSTON, TX 77042-4299

MAILED
MAR 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Jeroen Schreurs, et al.	:	
Application No. 11/836,688	:	DECISION ON PETITION
Filed: August 9, 2007	:	
Attorney Docket No. 14.0343-US	:	

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.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

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

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed May 19, 2010 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 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 election with amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

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

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

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

This application is being referred to Technology Center AU 3663 for appropriate action by the Examiner in the normal course of business on the reply received February 24, 2011.

April M. Wise
Petitions Examiner
Office of Petitions

cc: E.E. JACK RICHARDS, II
1616 S. VOSS ROAD
SUITE 750
HOUSTON, TX 77057

UNITED STATES 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

PILLSBURY WINTHROP SHAW PITTMAN LLP (CV)
ATTENTION: DOCKETING DEPARTMENT
P.O BOX 10500
McLean VA 22102

In re Application of	:	
Jonathan Day Lucas et al.	:	**DECISION ON PETITION**
Application No. 11836736	:	
Filed: 08/09/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **025715-0362067**	:	***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) October 19, 2010.

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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LERNER GREENBERG STEMER, LLP
[P BPX 2480
HOLLYWOOD, FL 33022-2480

MAILED
AUG 04 2010
OFFICE OF PETITIONS

In re Application of
Radu Vasile Bojan, et al.
Application No. 11/836,817
Filed: August 10, 2007
Attorney Docket No. 2006P13800

DECISION ON PETITION

This is a decision on the petition, filed June 21, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed May 5, 2009, which set a one (1) month or thirty (30) days (whichever is later) shortened statutory period for reply. A Notice of Abandonment was mailed on June 11, 2010.

Petitioner asserts that the Office action dated May 5, 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 practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

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

In view of the above, the Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**.

Telephone inquiries concerning this decision should be directed to 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 the Technology Center technical support staff of Art Unit 2835 for processing of the reply received November 25, 2009.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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): 11/836,874	Patent Number (if applicable):
First Named Inventor: Nojima	Title of Invention: FUEL TANK

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):
   a. The maintenance fee payment was required to have been paid after March 10, 2011.
   b. A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).
   c. The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
   d. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.
   e. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).
   f. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. *See* 35 U.S.C 41(c).
   g. This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:
   a. The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.
   b. The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
   c. The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.
   d. This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature /Alan E. Schiavelli/	Date 5/31/11
Name (Print/Typed) Alan E. Schiavelli	Practitioner Registration Number 32,087

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

☐ *Total of _____ forms are submitted.

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
JUN 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Nojima et al.	:	
Application No. 11/836,874	:	DECISION ON PETITION
Filed: August 10, 2007	:	
Attorney Docket No. 500.47850X00	:	

This is a decision on the request filed May 31, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on March 9, 2011. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

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

This application is being referred to the Technology Center, Art Unit 3753 for re-mailing the Office action of March 9, 2011. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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QUARLES & BRADY LLP
411 E WISCONSIN AVENUE
SUITE 2040
MILWAUKEE WI 53202-4497

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Michael D. Madsen	:	DECISION ON PETITION
Application No. 11/836,898	:	
Filed: August 10, 2007	:	
Attorney Docket No. 480805.00021	:	

This is a decision on the petition filed May 9, 2011, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file an Appeal Brief. Applicants timely filed a Notice of Appeal on September 28, 2010. No Appeal Brief having been filed within two months, the application became abandoned on November 29, 2010. The Office mailed a Notice of Abandonment on May 12, 2011.

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

The matter is being forwarded to Group Art Unit 3742 for consideration of the Appeal Brief, filed May 9, 2011.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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

PTO/SB/425 (03-11)

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

Nonprovisional Application Number or Control Number (if applicable): 11/836,900	Patent Number (if applicable):
First Named Inventor: S. IMANO	Title of Invention: NI-FE BASED FORGING SUPERALLOY EXCELLENT IN HIGH-TEMPERATURE STRENGTH AND HIGH-TEMPERATURE DUCTILITY, METI

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):
   a. The maintenance fee payment was required to have been paid after March 10, 2011.
   b. A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).
   c. The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
   d. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.
   e. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).
   f. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. *See* 35 U.S.C 41(c).
   g. This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:
   a. The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.
   b. The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
   c. The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.
   d. This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature /Shrinath Malur/	Date May 3, 2011
Name (Print/Typed) Shrinath Malur	Practitioner Registration Number 34,663

***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.

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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MATTINGLY & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

MAILED
MAY 05 2011
OFFICE OF PETITIONS

In re Application of	:	
Imano et al.	:	
Application No. 11/836,900	:	DECISION ON PETITION
Filed: August 10, 2007	:	
Attorney Docket No. KAS-5943	:	

This is a decision on the request filed May 3, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on December 17, 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 1733 for re-mailing the Office action of December 17, 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

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.
11/836,949	08/10/2007	Li Yang	HW701773	4089

EXAMINER

7590 11/12/2010
Leydig, Voit & Mayer, Ltd
(for Huawei Technologies Co., Ltd)
Two Prudential Plaza Suite 4900
180 North Stetson Avenue
Chicago, IL 60601

ART UNIT	PAPER NUMBER
2193	

NOTIFICATION DATE	DELIVERY MODE
11/12/2010	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Mimi Farmer

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/15/11

TO SPE OF : ART UNIT 2822

SUBJECT : Request for Certificate of Correction for Appl. No.: 11836977 Patent No.: 7935640

CofC mailroom date: 06/07/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: Should Claim 8 be Approved?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Comments: _____

/Zandra Smith/

SPE **Art Unit** 2822

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

PTO/SB/425 (03-11)

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

Nonprovisional Application Number or Control Number (if applicable): 11/837,035	Patent Number (if applicable):
First Named Inventor: H. Iizuka et al.	Title of Invention: METHOD FOR PURIFYING GAS, PURIFYING APPARATUS, AND GAS PURIFYING CATALYST

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):
   a. The maintenance fee payment was required to have been paid after March 10, 2011.
   b. A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).
   c. The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
   d. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.
   e. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).
   f. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. *See* 35 U.S.C 41(c).
   g. This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:
   a. The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.
   b. The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
   c. The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.
   d. This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature /Daniel J. Stanger/	Date May 19, 2011
Name (Print/Typed) Daniel J. Stanger	Practitioner Registration Number 32,846

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

☐ *Total of _____ forms are submitted.

Privacy Act Statement

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

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

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

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BRUNDIDGE & STANGER, P.C.
2318 MILL ROAD, SUITE 1020
ALEXANDRIA VA 22314

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of	:	
Iizuka et al.	:	
Application No. 11/837,035	:	DECISION ON PETITION
Filed: August 10, 2007	:	
Attorney Docket No. H&A-5942	:	

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

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on December 8, 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 1736 for re-mailing the Office action of December 8, 2010. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No.

MAILED

JUN 23 2011

OFFICE OF PETITIONS

Ann Shen
21037 Dorsey Way
Saratago CA 95070

In re Patent No. 7,639,092	:	
Issue Date: December 29, 2009	:	
Application No. 11/837,042	:	ON PETITION
Filed: August 10, 2007	:	
Attorney Docket No. 18085-0001001	:	

This is in response to the REQUEST FOR CERTIFICATE OF CORRECTION filed May 28, 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.

To the extent that patentee requests correction of the assignee name on the patent, the request is **GRANTED**. Prior to issuance of the requested certificate of corrections, the Certificate of Corrections Branch must make a determination as to whether the other requested corrections to the patent are warranted.

It is noted that the assignment of record states NanoAmp Mobile, Inc., Santa Clara, CA; however, the requested correction is to NanoAmp Mobile, Inc., Sunnyvale, CA." Any issuance of a certificate of correction would appropriately be to the assignee in Sunnyvale, CA as is of record as of the date of issuance of the patent.

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

Pursuant to the issue fee transmittal filed June 25, 2009, the patent issued in the name of assignee "NanoAmp Solutions, Inc. (Cayman)." Patentee files this request, requesting that the name of the assignee be corrected to "NanoAmp Mobile, Inc." submits a certificate of correction for this purpose.

Patentee's evidence and Office records show that the change of name for the assignee of the above-identified application to "NanoAmp Mobile, Inc." was recorded on October 30, 2009. The recording of the assignment (Reel/Frame 023448/0399) occurred before issuance of the patent on December 29, 2009.

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 *after* consideration of whether the other requested corrections are warranted.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO IL 60606

MAILED

DEC 13 2010

OFFICE OF PETITIONS

In re Application of	:	
CHEN, Xiaosheng	:	
Application No. 11/837,045	:	DECISION ON PETITION
Filed: August 10, 2007	:	TO WITHDRAW
Attorney Docket No. **07317.00001**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 17, 2010.

The request is **NOT APPROVED**.

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

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

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

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **ADVANCE CHINA I.P. LAW OFFICE**
SUITE 918-920, 9/F, DONG SHAN PLAZA
NO. 69 XIANLIE CENTRAL ROAD
GUANGZHOU 510 095
P.R. CHINA

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CHICAGO IL 60606

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of

CHEN, Xiaosheng
Application No. 11/837,045
Filed: August 10, 2007
Attorney Docket No. **07317.00001**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 13, 2011.

The request is **NOT APPROVED**.

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

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71 who has properly intervened.

If an assignee has intervened in this application, then a Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with a renewed request.

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **ADVANCE CHINA I.P. LAW OFFICE**
SUTIE 918-920, 9/F, DONG SHAN PLAZA
NO. 69 XIANLIE CENTRAL ROAD
GUANGZHOU 510 095
P. R. CHINA

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CHICAGO IL 60606

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APR 06 2011

OFFICE OF PETITIONS

In re Application of

CHEN, Xiaosheng
Application No. 11/837,045
Filed: August 10, 2007
Attorney Docket No. 07317.00001

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 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. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by James Callahan on behalf of all attorneys of record who are associated with customer No. 22908. All attorneys/agents associated with the Customer Number 22908 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Xiaosheng at the address indicated below.

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **XIAOSHENG CHEN**
ROOM 1822
BAIYUN BUILDING, #111 BAIYUN STREET
YUEXIU DISTRICT, GUANGZHOU CITY
510100, P.R. CHINA

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XIAOSHENG CHEN
ROOM 1822
BAIYUN BUILDING, #111 BAIYUN STREET
YUEXIU DISTRICT
GUANGZHOU CITY 51010-0 CN **CHINA**

MAILED

AUG 25 2011

OFFICE OF PETITIONS

In re Application of
Xiaosheng Chen
Application No. 11/837,045
Filed: August 10, 2007
Attorney Docket No. N/A

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 16, 2011, to revive the above-identified application.

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

The application was held abandoned for failure to file an appeal brief and fee within two months from the filing of the Notice of Appeal on September 30, 2010. A Notice of Abandonment was mailed on May 23, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief with the $270 fee (2) the petition fee of $810; 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 on the petition. Thereafter, all future communications from the Office will be mailed solely to the address of record unless otherwise instructed.

This application file is being referred to Technology Center Art Unit 3788 for review of the response 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

cc: Gerard F. Dunne
Law Offices of Gerard F. Dunne
156 5th Avenue – Suite 1223
New York, NY 10010

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Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

MAILED
MAR 25 2011
OFFICE OF PETITIONS

In re Application of :
DIXON, Christopher J. et al. :
Application No. 11/837,050 : DECISION ON PETITION
Filed: August 10, 2007 : TO WITHDRAW
Attorney Docket No. **NAI1P535A/06.052.02** : FROM RECORD

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

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

A review of the file record indicates that the power of attorney to Zilka-Kotab, PC has been revoked by the assignee of the patent application on February 28, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **PATENT CAPITAL GROUP**
6119 MCCOMMAS BLVD
DALLAS TX 75214

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ZILKA-KOTAB, PC
PO BOX 721120
SAN JOSE, CA 95172-1120

MAILED
APR 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Christopher John Dixon, et al.	:	
Application No. 11/837,067	:	DECISION ON PETITION
Filed: August 10, 2007	:	TO WITHDRAW
Attorney Docket No. NAI1P535B/06.052.03	:	FROM RECORD
	:	

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

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Zilka-Kotab, PC has been revoked by the assignee of the patent application on February 28, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/AMW/
April M. Wise
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.
11/837,294	08/10/2007	Jerry Miller	Miller-01	4742

36267 7590 05/18/2011
DENIS RICHARD O""BRIEN
PO Box 1699
Blaine, WA 98231

EXAMINER
KATCHEVES, BASIL S

ART UNIT	PAPER NUMBER
3635	

MAIL DATE	DELIVERY MODE
05/18/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 18 2011

Denis Richard O'Brien
P.O. Box 1699
Blaine, WA 98231

In re Application of
Jerry Miller
Application No. 11/837,294
Filed: August 10, 2007
For: METHOD OF FORMING JOINTS OF NON-CYLINDRICAL TUBING

: DECISION ON THE PETITION
: REGARDING REQUEST TO
: WITHDRAW REQUIREMENT
: FOR RESTRICTION

Applicant's petition filed under 37 CFR 1.144, filed April 29, 2011, requests the supervisor to find that the withdrawal of claims 23-29 by original presentation by the examiner in the Final rejection of January 7, 2011 was improper, and to reinstate said claims to pending status and have them treated on the merits.

The petition is **GRANTED** to the extent indicated below.

A review of the file record indicates that in response to an amendment by the applicant filed November 23, 2010, which added claims 15-31, the examiner required restriction between the originally filed claims 1-14 and newly filed claims 23-29. Because the applicant had already received an examination on the merits of claims 1-14, the examiner indicated that this invention had been constructively elected by original presentation in a Final rejection dated January 7, 2011. The reason that the examiner gave for the restriction was that claims 23-29 are "drawn to a method of using a tubular member".

On April 20, 2011, the applicant, in an after-final amendment, traversed the restriction and argued that it and the constructive election were improper, and that claims 23-29 should be examined with claims 15-22 and 30-31. The examiner was apparently not persuaded, as the Advisory Action of April 28, 2011 made no indication of withdrawing the requirement for restriction, nor did the examiner respond to the applicant's traversal. The Advisory action form is unclear as to whether or not the amendment would be entered, however, the examiner did attach a copy of the front page of the amendment that indicates it was acceptable for entry.

The applicant filed the instant petition which argues that the withdrawn claims are drawn to the same invention as original claims 8-14, that Independent *and* Distinct inventions

have not been shown, that claims are dependent upon claims 15 which is pending and that the inventions of claim 15 and 23 are not patentable over each other.

Initially, looking at the restriction of January 7, 2011, it is noted that in order for two inventions to be properly restrictable the examiner needs to "clearly set forth in the Office action the reasons why the claims withdrawn from consideration are not readable on the elected invention", MPEP 821. The examiner clearly has not done so. Merely stating that the claims are drawn to "a method of using a tubular member" does not explain which categories of invention the inventions of claims 23-29 and claims 1, 8, 15-22 and 30-31 are. Nor has the examiner shown how the inventions are independent and/or distinct. Finally, no showing of serious burden has been demonstrated by the examiner.

Given the above facts, it cannot be determined under what grounds the examiner is requiring restriction, and so it also cannot also be determined if the examiner has restricted the claims properly. Absent a proper and complete requirement for restriction, the propriety of the requirement cannot be upheld. Furthermore, the examiner has failed to address the applicant's traversal of his restriction and to make the restriction Final, MPEP 821.01. Therefore the restriction by original presentation made by the examiner in the Final rejection of January 7, 2011, being incomplete, is hereby **WITHDRAWN**.

This application is being returned to the examiner to issue a new non-final Office action that includes an examination on the merits of pending claims 15-31, consistent with this decision.

The petition of April 29, 2011 is **GRANTED** to the extent indicated above.

Any questions or comments with respect to this decision should be forwarded to Quality Assurance Specialist Steven N. Meyers at (571) 272-6611.

Katherine Matecki

Kathy Matecki, Director
Patent Technology Center 3600
(571) 272-5250

snm/snm: 5/8/11

SM

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

MAILED
MAY 3 1 2011
OFFICE OF PETITIONS

In re Application of	:	
Norman	:	
Application No. 11/837,379	:	DECISION
Filed/Deposited: 10 August, 2007	:	
Attorney Docket No. NORMKRI-4	:	

This is a decision on the papers filed 16 February, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

NOTE:

Petitioner chose to include with the petition—the form for which already contained the required regulatory statement of unintentional delay—an additional three- (3-) page statement by the Applicant.

While this may have satisfied the Applicant's wish personally to argue his case before the Office, the inclusion of such statements with a petition pursuant to 37 C.F.R. §1.137(b) when not specifically requested by the Office may have the unintended consequence of a declarant's statement—which must be considered by the Office—suggesting delay that is other than unintentional.

Thus, such statements—whether by Applicant or by Practitioner—are not encouraged.

Further, the Applicant's statement sought to report into the record averred conversations with Office personnel.

Petitioner, as one registered to practice before the Office, is aware that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any

[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 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.

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) or inaction(s).

The fact that the statement of such conversations was submitted over the signature of the Applicant, who is not registered to practice before the Office, does not negate the fact that they were submitted herein by Petitioner, who is so registered. (*See:* The regulations pursuant to 37 C.F.R. §11.18.[2])

Moreover, all who submit papers to the Office are bound by the same Rules of Practice.

---

[2] The regulations at 37 C.F.R. §11.18 provide:

§ 11.18 Signature and certificate for correspondence filed in the Office.

(a)For all documents filed in the Office in patent, trademark, and other non-patent matters, and all documents filed with a hearing officer in a disciplinary proceeding, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Office must bear a signature, personally signed by such practitioner, in compliance with § 1.4(d)(1) of this subchapter.

(b)By presenting to the Office or hearing officer in a disciplinary proceeding (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1)All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or knowingly and willfully makes any false, fictitious, or fraudulent statements or representations, or knowingly and willfully makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001 and any other applicable criminal statute, and violations of the provisions of this section may jeopardize the probative value of the paper; and

(2)To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances,

(i)The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of any proceeding before the Office;

(ii)The other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii)The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv)The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c)Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions or actions as deemed appropriate by the USPTO Director, which may include, but are not limited to, any combination of—

(1)Striking the offending paper;

(2)Referring a practitioner's conduct to the Director of Enrollment and Discipline for appropriate action;

(3)Precluding a party or practitioner from submitting a paper, or presenting or contesting an issue;

(4)Affecting the weight given to the offending paper; or

(5)Terminating the proceedings in the Office.

(d)Any practitioner violating the provisions of this section may also be subject to disciplinary action.

[Added, 73 FR 47650, Aug. 14, 2008, effective Sept. 15, 2008]

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

As to the Allegations
of Unintentional Delay

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

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 30 June, 2010, with reply due absent extension of time on or before 30 September, 2010.

On 1 November, 2010, Petitioner filed an amendment after final, which the Examiner refused to enter and Petitioner—as one registered to practice before the Office—knew was not as of right and not a proper reply[3] if it did not *prima facie* place the application in condition for allowance.

The application went abandoned by operation of law after midnight 30 November, 2010.

On 12 January, 2011, the Examiner mailed an Advisory Action.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 16 February, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, with a statement of unintentional delay and a reply in the form of a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment. As noted above:

- Petitioner included with the petition a statement by the Applicant, which statement contained references to conversations with Office personnel; and\
- The Office has set forth references to the regulations and the MPEP indicating why Applicant's statement and references were inappropriate at best.[4]

[3] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

Further, the record is clear that, not only did Applicant and Petitioner know upon receipt of the 30 June, 2010, Office action that it was a final Office action, but Applicant and Petitioner knew on receipt of the 2 September, 2010, Interview Summary that the proposed amendment "would not be entered if submitted as an after-final amendment." (Emphasis, the original.) Thus, the very face of the record suggests that Petitioner's and Applicant's protestations have no merit.

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.[5]

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).[6]

---

[4] Notwithstanding Petitioner's and/or Applicant's actual confusion as to on which page information was located—the suggested error was not on the cover (address and date) sheet, but on the first page of the 30 June 2010, Office action—or averred confusion as to the final or non-final nature of that Office action, the Office action stated expressly at age 10:

***

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP §706-07(a). (Emphasis, the original.)

***

Moreover, the 2 September, 2010, Interview Summary expressly stated at the first page after the cover (address and date) sheet:

***

Applicant's representative submitted a proposed amendment including limitations toward the shaped guide surface providing a gradual and curved transition. The examiner disagreed that the amendment would overcome the Hanks reference and further noted that it would not be entered if submitted as an after final amendment. (Emphasis, the original.)

***

[5] 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).

[6] 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, by definition, are not intentional.[7]))

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 3754 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.

[7] 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[8]) 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

[8] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/23/2011

TO SPE OF : ART UNIT 2193 Bullock Lewis (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/837387 Patent No.: 8028015

CofC mailroom date: _____

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

Certificates of Correction Branch

571-272-8680 _____

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

LEWIS A. BULLOCK, JR.
SUPERVISORY PATENT EXAMINER

SPE

2193
Art Unit

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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

SEP 13 2010

OFFICE OF PETITIONS

SQUIRE SANDERS & DEMPSEY LLP
1 EAST WASHINGTON STREET
SUITE 2700
PHOENIX AZ 85004

In re Application of	:	
Elizabeth A. RAUSCHER	:	
Application No. 11/837,397	:	DECISION ON PETITION
Filed: August 10, 2007	:	TO WITHDRAW
Attorney Docket No. 088581.00001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 16, 2010.

The request is **APPROVED**.

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

The request was signed by David E. Rogers on behalf of the attorneys of record associated with Customer No. 23619.

The attorneys of record associated with Customer No. 23619 have been withdrawn.

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

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

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

/dcg/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ELIZABETH A. RAUSCHER
2603 MAIN STREET, SUITE 1000
IRVINE CA 92614-4271

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/837,397	08/10/2007	Elizabeth A. Rauscher	088581.00001

CONFIRMATION NO. 4927

POWER OF ATTORNEY NOTICE

23619
SQUIRE SANDERS & DEMPSEY LLP
1 East Washington Street
SUITE 2700
PHOENIX, AZ 85004

OC000000043460190

Date Mailed: 09/13/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/16/2010.

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

/dcgoodwyn/

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

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AEON LAW
1525 4th Avenue, Suite 800
Seattle, WA 98101-1648

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Maria Gaos, et al.	:	
Application No. 11/837,419	:	DECISION ON PETITION
Filed: August 10, 2007	:	TO WITHDRAW
Attorney Docket No. GAOS-2007027	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 13, 2010.

The request is **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 L.K. Philipp, Jr. on behalf of all attorneys of record. All attorneys associated with this application have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Maria Gaos 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: **Maria Gaos**
22104 4th Pl W
Bothell, WA 98021

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/837,419	08/10/2007	Maria Gaos	GAOS-2007027

CONFIRMATION NO. 4957

POWER OF ATTORNEY NOTICE

46345
AEON LAW
1525 4TH AVE, STE 800
SEATTLE, WA 98101-1648

OC000000043058217

Date Mailed: 08/16/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/13/2010.

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

/tsjohnson/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Decision Date : October 12,2011

In re Application of :

Steve Simon

Application No : 11837429

Filed : 10-Aug-2007

Attorney Docket No : ALWA-012

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed October 12,2011

The request is **APPROVED.**

The request was signed by Michael S. Neustel (registration no. 41221) on behalf of all attorneys/agents associated with Customer Number 65215 . All attorneys/agents associated with Cusotmer Number 65215 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	mPhase Technologies, Inc.
Name2	Ronald Durando
Address 1	150 Clove Road
Address 2	
City	Little Falls
State	NJ
Postal Code	07424
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	11837429
Filing Date	10-Aug-2007
First Named Inventor	Steve Simon
Art Unit	1773
Examiner Name	JYOTI NAGPAUL
Attorney Docket Number	ALWA-012
Title	Event Activated Micro Control Devices

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 65215

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	mPhase Technologies, Inc. Ronald Durando
Address	150 Clove Road
City	Little Falls
State	NJ
Postal Code	07424
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Michael S. Neustel/
Name	Michael S. Neustel
Registration Number	41221

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GREENBERG TRAURIG LLP (LA)
C/O: GREENBERG TRAURIG LLP CHICAGO OFFICE
77 WEST WACKER DRIVE, SUITE 3100
INTELLECTUAL PROPERTY DEPARTMENT
CHICAGO IL 60601

MAILED
MAR 17 2011
OFFICE OF PETITIONS

In re Application of	:	
Adstedt et al.	:	DECISION ON PETITION
Application No. 11/837,465	:	TO WITHDRAW
Filed: August 10 2007	:	FROM RECORD
Attorney Docket No. 100723.020000	:	

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.

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.***

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. The Customer Number 86451 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71 As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, a Notice of Allowance and Fee(s) Due was mailed February 1, 2011 that requires a reply.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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FEB 01 2011

OFFICE OF PETITIONS

AARON PAUL MCGUSHION
4565 Dogwood Ave
Seal Beach CA 90740

In re Application of	:	
John Eldon Falk	:	
Application No. 11/837,466	:	DECISION ON PETITION
Filed: August 10, 2007	:	
Attorney Docket No. B-6130NP 624285-4	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 6, 2009, 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 22, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 23, 2008. A Notice of Abandonment was mailed on May 29, 2009.

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

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

This application is being referred to Technology Center AU 3723 for appropriate action by the Examiner in the normal course of business on the reply received February 19, 2009.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/837,487	08/10/2007	David Brown	ASUR:009USC1/10711822	5109

74030 7590 11/18/2010
Fullbright & Jaworski L.L.P.
600 Congress Avenue, Suite 2400
Austin, TX 78701

EXAMINER
CHONG, KIMBERLY

ART UNIT	PAPER NUMBER
1635	

NOTIFICATION DATE	DELIVERY MODE
11/18/2010	ELECTRONIC

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

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

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

aopatent@fulbright.com
legal@asuragen.com

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Alexandria, VA 22313-1450
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NOV 1 8 2010

Fullbright & Jaworski L.L.P.
600 Congress Avenue, Suite 2400
Austin TX 78701

In re Application of:	:
Brown et al.	:
Serial No.: 11/837,487	: PETITION DECISION
Filed: August 10, 2007	:
Attorney Docket No.:	:
ASUR:009USC1/10711822	

This is in response to the Petition filed by applicants under 37 CFR § 1.181 on November 12, 2010, requesting that the amendment after final filed on October 15, 2010 be entered.

BACKGROUND

Most recently, on November 5, 2009, the examiner refused entry of the after final amendment of October 15, 2010 **solely** because issues would not be reduced on appeal.

On November 12, 2010, applicants filed a Petition under 37 CFR § 1.181 requesting that the amendment after final filed on October 15, 2010 be entered.

Applicants argue that the two changes to claim 102 should be entered as they reduce the issues on appeal. Specifically, applicants point out "Both changes do not increase or enlarge the scope of the claim in any way. Moreover, the one pending rejection in the Final Office Action is based on obviousness (§ 103). The Action contends that the cited references teach aspects of the claim that are removed by the amendment, such as feature ii). As such, the issues on appeal are reduced by the amendment."

DISCUSSION

The petition and the file history have been carefully considered.

However, upon further consideration the examiner is sending out a new Advisory Action Before the Filing of an Appeal Brief, wherein the examiner is stating the proposed amendment will not be entered because **new issues would be raised** that would require further consideration and/or

search, in addition to the fact that the amendments do not place the application is better form for appeal.

DECISION

The petition is **DISMISSED AS MOOT in view of the forthcoming supplemental Advisory Action.**

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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.
11/837,487	08/10/2007	David Brown	ASUR:009USC1/10711822	5109

74030 7590 01/11/2011
Fullbright & Jaworski L.L.P.
600 Congress Avenue, Suite 2400
Austin, TX 78701

EXAMINER
CHONG, KIMBERLY

ART UNIT	PAPER NUMBER
1635	

NOTIFICATION DATE	DELIVERY MODE
01/11/2011	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):

aopatent@fulbright.com
legal@asuragen.com

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JAN 1 1 2011

Fullbright & Jaworski L.L.P.
600 Congress Avenue, Suite 2400
Austin TX 78701

In re Application of	:	
Brown et al.	:	
Serial No.: 11/837,487	:	Decision on Petition
Filed: August 10, 2007	:	
Attorney Docket No.:	:	
ASUR:009USC1/10711822		

This letter is in response to the petition filed under 37 C.F.R. § 1.181 filed on November 23, 2010 to reverse the examiner's refusal to enter the after final amendment.

BACKGROUND

Relevant parts of the prosecution history are summarized below.

The examiner mailed to applicants a final Office action on May 28, 2010. Claims 102-118 were pending. Claims 102-112, 115 and 116 were rejected and claims 113, 114, 117 and 118 were withdrawn from consideration. Claims 102-112, 115 and 116 were rejected under 35 USC 103(a) as being unpatentable over Chen et al., Tuschi et al. and Manoharan et al. Claims 115 and 116 were rejected under 35 USC 103(a) as being unpatentable over Croce et al.

On September 8, 2010, a telephonic interview was held wherein art rejections and proposed claim amendments were discussed. No agreement was reached.

On October 18, 2010, applicants submitted an after final amendment including claim amendments and remarks.

On November 5, 2010, the examiner mailed to applicants an advisory action indicating that the after final amendment would not be entered because the amendments were not deemed to place the application in better form for appeal.

On November 12, 2010, applicants submitted a petition requesting entry of the amendment of October 18, 2010.

A petition decision was mailed on November 18, 2010 indicating a supplemental Advisory Action was forthcoming and rendering the petition moot.

On November 22, 2010, the examiner mailed to applicants a second advisory action indicating that the after final amendment would not be entered because new issues that require further consideration and/or search to determine patentability were raised.

On November 23, 2010, applicants submitted the second petition currently under review.

A Notice of Appeal was also filed on November 29, 2010.

DISCUSSION

The petition and file history have been carefully considered.

Applicants argue that the proposed claim amendments should be entered as no new issues are raised. Specifically, "1) the phrase "between 80% and 100% complementary" was changed to simply "100% complementary"; and, 2) optional feature ii) was removed, so that the claim now recites only i)."

Applicants further point out "Both changes do not increase or enlarge the scope of the claim in any way. Moreover, the one pending rejection in the Final Office Action is based on obviousness (§103). The Action contends that the cited references teach aspects of the claim that are removed by the amendment, such as feature ii). Petitioners argued that the issues on appeal were reduced by the amendment. Petitioners contend that the amended claim is fully within the scope of the previously unamended claim. No new search is needed because this scope of the claim was already under consideration prior to the amendment. This was true with respect to both claim 102, which is pending, and claim 105, which was previously dependent on claim 102. While Petitioners desire to cancel claim 105 in view of the proposed amendment to claim 102, claim 105 had specifically stated what is being recited in amended claim 102."

Moreover, applicants argue "the final Office Action dated May 28, 2010, make it clear that the 103 rejection addresses the limitation directed to what is set out in "i)." Claim 102 recites "wherein i) the 5' terminus of the second polynucleotide is replaced with a lower alkylamine group" and the final Office Action rejects the claim under section 103, saying:

> Manoharan et al. teach modification of RNA molecules that are used to silence gene expression of a desired target. Manoharan et al. teach the terminal 5' ends of a strand can be modified with alkyl amine groups that allow increased nuclease resistance and increased uptake of the molecule (see at least paragraphs 0078 and 0165).

Because there is the allegation that Manoharan teaches what is set forth in i), it is not clear why a new search is needed."

Applicant's arguments are well-taken and found persuasive that the after final amendment of October 18, 2010 was improperly denied consideration and entry.

DECISION

The petition is **GRANTED.** The advisory action mailed November 22, 2010, indicating that the after final amendment of October 18, 2010 would not be entered is hereby **VACATED**.

The application will be forwarded to the examiner for consideration of the amendment after final wherein the examiner will consider whether to allow the application or prepare a new advisory action indicating that the after final amendment of October 18, 2010 will be entered but still not allowed. Since a Notice of Appeal has been filed, applicants are still required to file a brief in compliance with 37 CFR 41.37 within two months of the date of the filing of the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal.

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

Jacqueline Stone
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENEALY VAIDYA LLP
515 EAST BRADDOCK RD SUITE B
Alexandria VA 22314

MAILED
JUN 17 2011
OFFICE OF PETITIONS

In re Application of :
Sandoz et al. :
Application No. 11/837,506 : DECISION ON PETITION
Filed: August 11, 2007 :
Attorney Docket No. HRA3009-0059 :

This is a decision on the petition, filed June 13, 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**.

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

This above-identified application was held abandoned for failure to timely file an appeal brief in response to the Notice of Appeal filed September 29, 2010. No timely request for extension of time was submitted pursuant to 37 CFR 1.136(a). Accordingly the application was held abandoned on November 30, 2010. A Notice of Abandonment was mailed April 12, 2011.

Petitioner contends that the Notice of Abandonment was mailed prematurely. Petitioner maintains that based on the Notice of Appeal filed on September 29, 2010, the period for filing an appeal brief or some other satisfactory paper expired on April 29, 2011.

A review of the record shows that the Notice of Abandonment held the application abandoned for failure to file a response to the final Office action of March 29, 2010. Further review of the record shows that a Notice of Appeal and fee were provided on September 29, 2010. The extendable reply period for submitting a response to the Notice of Appeal did not expire until April 29, 2011. Although the Notice of Abandonment was mailed prematurely, petitioner was required to respond to the Notice of Appeal within the maximum extendable time period with the appropriate extension of time fee. 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).

In light of the fact that a proper response was not timely submitted, the application is now properly held abandoned.

Petitioner may wish to file a petition to revive under 37 CFR 1.137. It is further noted that although petitioner states a request for continued examination has been submitted on petition, the record does not support such filing.

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

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

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

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

Correspondence may also be filed via the electronic filing system.

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BUCHANAN, INGERSOLL
& ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Patent No. 7,455,514 :
Issue Date: 25 November, 2008 :
Application No. 11/837,514 : DECISION
Filed/Deposited: 11 August, 2007 :
Attorney Docket No.: 1030673-000229

This is a decision on the petition filed on 30 April, 2009, requesting issuance of duplicate Letters Patent for the above-identified patent/application and considered pursuant to 37 C.F.R. §1.182.[1]

NOTE:

Petitioner refers in his papers as filed on 30 April, 2009, and 16 September, 2009, to conversations averred to have occurred with Office staff.

Petitioner, as one registered to practice before the Office, is aware 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)/inaction.

---

[1] The regulations at 37 C.F.R. §1.182 provide:

§ 1.182 Questions not specifically provided for.
All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Commissioner, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(h). [47 Fed. Reg. 41278, Sept. 17, 1982, effective date Oct. 1, 1982; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

[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.

Petitioner further refers to a "discrepancy" between listings that indicate the instant matter as a "patented case" before the date of issue.

Such reference may indicate only that an application is in process to issue and not that an application already has issued as a patent.

On review of the record, it appears that the 5 November, 2008, date cited by Petitioner is the date on which Petitioner paid the Fees Due and those fees were matched with the application.

The petition is **GRANTED.**

BACKGROUND

Petitioner has made demand upon the Office to issue duplicate Letters Patent in the instant matter.

Petitioner has indicated that the patent was not received[1] and/or cannot be located, and has authorized the charge of fees to Deposit Account 02-4800, now charged.

The Publishing Division is directed to issue duplicate Letters Patent.

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

The file is being released to the IFW Repository.

Any questions regarding the issuance of the duplicate Letters Patent should be directed to Ms. Naomi Farmer, RSQ, Fax: 571-270-9753.

[1] For guidance on the proper showing for an allegation/averment of "non-receipt" Petitioners' attentions always are directed to the Commentary at MPEP §711.03(c)(I).

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted 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)/inaction.

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

cc:
Ms. Niomi Farmer
RSQ
9th Floor
Room D 30-B
Fax No. (571) 270-9753

[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

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United States Patent and Trademark Office
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O'BRIEN JONES, PLLC
1951 Kidwell Drive
Suite 550 B
Tysons Corner VA 22182

MAILED
MAR 10 2011
OFFICE OF PETITIONS

In re Application of :
Brown, et al. :
Application No. 11/837,559 :
Filed: August 13, 2007 :
Attorney Docket No. 1002.0043-04000 :

NOTICE

This is in response to the paper filed February 1, 2011 under 37 CFR 1.28(g)(2) requesting that status as a Small Entity be removed.

In accordance with the request, status as a Small Entity has been removed.

This file is being referred to Technology Center AU 1634 for consideration of the RCE and amendment filed on September 14, 2010 and the subsequently filed IDSs.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

O'BRIEN JONES, PLLC
1951 Kidwell Drive
Suite 550 B
Tysons Corner VA 22182

MAILED
MAR 10 2011
OFFICE OF PETITIONS

In re Application of :
Brown, et al. :
Application No. 11/837,608 :
Filed: August 13, 2007 :
Attorney Docket No. 1002.0043-11000 :

NOTICE

This is in response to the paper filed February 1, 2011 under 37 CFR 1.28(g)(2) requesting that status as a Small Entity be removed.

In accordance with the request, status as a Small Entity has been removed.

This file is being referred to Technology Center AU 1641 to await response to the final Office action, mailed December 28, 2010.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/31/11

TO SPE OF : ART UNIT 1743

SUBJECT : Request for Certificate of Correction for Appl. No 11/837,610 .: 7597828B2

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.

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

Comments: All changes approved.

/Joseph S Del Sole/ **1743**
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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O'BRIEN JONES, PLLC
1951 Kidwell Drive
Suite 550 B
Tysons Corner VA 22182

MAILED
MAR 15 2011
OFFICE OF PETITIONS

In re Application of :
Brown et al. :
Application No. 11/837651 :
Filing or 371(c) Date: 08/13/2007 : ON PETITION
Attorney Docket Number: 1002.0043-14000 :

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

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FULBRIGHT & JAWORSKI L.L.P.
Attn: MN IP Docket
600 Congress Avenue, Suite 2400
Austin, TX 78701

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of
Charles N. SERHAN, et *al.*
Application No. 11/837,693
Filed: August 13, 2007
Attorney Docket No. **BWHI-049/US1**

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

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 25, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 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]

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted.

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

This application is being referred to Technology Center AU 1627 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/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	11837905
Filing Date	13-Aug-2007
First Named Inventor	Leslie Schatten
Art Unit	2614
Examiner Name	KUASSI GANMAVO
Attorney Docket Number	PAT 63723-2 US
Title	PREAMPLIFIER FOR MUSICAL INSTRUMENTS

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 26123

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	Leslie M. Schatten
Address	367 Ottawa Street South
City	Kitchener
State	
Postal Code	N2M 3P3
Country	CA

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Jeffrey W. Wong/
Name	Jeffrey W. Wong
Registration Number	46414

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : July 27,2011

In re Application of :

Leslie Schatten

Application No : 11837905

Filed : 13-Aug-2007

Attorney Docket No : PAT 63723-2 US

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed July 27,2011

The request is **APPROVED.**

The request was signed by Jeffrey W. Wong (registration no. 46414) on behalf of all attorneys/agents associated with Customer Number 26123 . All attorneys/agents associated with Cusotmer Number 26123 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	Leslie M. Schatten
Name2	
Address 1	367 Ottawa Street South
Address 2	
City	Kitchener
State	
Postal Code	N2M 3P3
Country	CA

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
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P.O. Box 1450
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KACVINSKY DAISAK PLLC (1511)
4500 Brooktree Raod
Suite 302
Wexford PA 15090

MAILED
SEP 02 2010
OFFICE OF PETITIONS

In re Application of	:	
Daniel Stanek et al.	:	
Application No. 11/837,911	:	DECISION ON PETITION
Filed: August 13, 2007	:	
Attorney Docket No. 1511L0230	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 3, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed November 3, 2009. Accordingly, the date of abandonment of this application is February 4, 2010. A Notice of Abandonment was mailed on February 23, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

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

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

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
1600 TCF TOWER
121 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Kakoschke et al.	:	DECISION ON PETITION
Application No. 11/837,972	:	TO WITHDRAW
Filed: August 13, 2007	:	FROM RECORD
Attorney Docket No. 2007P50170US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed July 26, 2010, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that Schwegman, Lundberg & Woessner, P.A. does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The request to change the correspondence address of record is not accepted in view of Schwegman, Lundberg & Woessner, P.A. not having power of attorney. See MPEP §§ 601.03 and 405.

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

Currently, a Notice of Allowance was mailed July 19, 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

cc: INFINEON TECHNOLOGIES AG
PATENT DEPARTMENT
MUC 11.1.507
P.O. BOX 221644
MUNICH 80506 DE GERMANY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BLAIRTECH SOLUTION LLC
1039 MERRITT TERRACE
SUNNYVALE CA 94086

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of	:	
John B. Groe	:	
Application No. 11/837,983	:	DECISION ON PETITION
Filed: August 13, 2007	:	
Attorney Docket No. SECO-036/01US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before November 5, 2010, as required by the Notice of Allowance and Fee(s) Due mailed August 5, 2010. Accordingly, the date of abandonment of this application is November 6, 2010. A Notice of Abandonment was mailed November 18, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Publishing Division 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

BANNER & WITCOFF, LTD
AND ATTORNEYS FOR CLIENT NUMBER 011738
10 SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

MAILED

APR 21 2011

OFFICE OF PETITIONS

In re Application	:	
Frei et al.	:	DECISION ON PETITION
Application No. 11/837,994	:	TO WITHDRAW
Filed: August 13, 2007	:	FROM RECORD
Attorney Docket No. 539.3172.1	:	

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 5, 2011.

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

A review of the file record indicates that Banner & Witcoff, LTD, was revoked as attorney of record on April 7, 2011, by the assignee of record. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: FREDRIKSON & BYRON, P.A.
INTELLECTUAL PROPERTY GROUP, MDT PATENTS
200 SOUTH SIXTH STREET, SUITE 4000
MINNEAPOLIS, MN 55402

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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FULBRIGHT & JAWORSKI L.L.P.
98 SAN JACINTO BOULEVARD
SUITE 1100
AUSTIN TX 78701-4255

MAILED
MAR 13 2012
OFFICE OF PETITIONS

In re Patent No. 8,080,578
Issued: December 20, 2011
Application No. 11/838,131
Filed: August 13, 2007
Dkt. No.: ARCA:003USC1/10711859

: DECISION ON PATENT TERM
: ADJUSTMENT and NOTICE OF INTENT
: TO ISSUE CERTIFICATE OF
: CORRECTION
:

This is a decision on the petition filed on February 14, 2012 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 300 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 300 days is **GRANTED**.

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

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 300 days.

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Adviser
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,080,578

DATED : December 20, 2011 **DRAFT**

INVENTOR(S) : Liggett, 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 280 days

Delete the phrase "by 280 days" and insert – by 300 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FULBRIGHT & JAWORSKI L.L.P.
98 SAN JACINTO BOULEVARD
SUITE 1100
AUSTIN TX 78701-4255

MAILED
MAR 13 2012
OFFICE OF PETITIONS

In re Patent No. 8,093,286
Issued: January 10, 2012
Application No. 11/838,142
Filed: August 13, 2007
Dkt. No.: ARCA:003USC2/10711860

: DECISION ON PATENT TERM
: ADJUSTMENT and NOTICE OF INTENT
: TO ISSUE CERTIFICATE OF
: CORRECTION
:

This is a decision on the petition filed on February 14, 2012 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 292 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 292 days is **GRANTED**.

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

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 292 days.

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Adviser
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,093,286

DATED : January 10, 2012 **DRAFT**

INVENTOR(S) : Liggett, 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 254 days

Delete the phrase "by 254 days" and insert – by 292 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **1-28-11**

TO SPE OF : ART UNIT **2613**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11838167** Patent No.: **7529487**

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: _____

_____

_____

_____

_____

/Kenneth Vanderpuye/ ___2613___
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/21/2011

TO SPE OF : ART UNIT 2879

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/838176 Patent No.: 7656091 B2

CofC mailroom date: 6/13/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

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

SPE

2879
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

DENNIS DUPRAY
1801 BELVEDERE DR.
GOLDEN, CO 80401

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Application of :
Dennis J. Dupray :
Application No. 11/838,213 :
Filed: August 13, 2007 :
Attorney Docket No. 1011-1 :

ON PETITION

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 14, 2010, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 15, 2011.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DENNIS DUPRAY
1801 BELVEDERE DRIVE
GOLDEN, CO 80401

MAILED

MAY 12 2011

OFFICE OF PETITIONS

In re Application of
Dennis J. DUPRAY
Application No. 11/838,213
Filed: August 13, 2007
Attorney Docket No. **1011-1**

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

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

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 information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DON W. BULSON (BRAI)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE - 19TH FLOOR
CLEVELAND OH 44115

MAILED

JUL 21 2011

OFFICE OF PETITIONS

In re Application of	:
Feilkas et al.	: DECISION ON PETITION
Application No. 11/838,300	: UNDER 37 CFR 1.78(a)(3)
Filed: August 14, 2007	: AND 37 CFR 1.78(a)(6)
Attorney Docket No. SCHWP0298USA	:

This is a decision on the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed June 30, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 119(e) for the benefit of the prior-filed applications set forth in the amendment filed concurrently with the instant petition.

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 applications, unless previously submitted;
> (2) the surcharge set forth in § 1.17(t); and
> (3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed on August 14, 2007 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. § 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

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

Additionally, 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) 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 language required 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Further, it is not apparent whether the 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.

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

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 2624 for appropriate action on the amendment submitted June 30, 2011, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional 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
11/838,300	08/14/2007	2624	1416	SCHWP0298USA	22	3

CONFIRMATION NO. 6499

CORRECTED FILING RECEIPT

46140
DON W. BULSON (BRAI)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE - 19TH FLOOR
CLEVELAND, OH 44115

OC000000048883637

Date Mailed: 07/21/2011

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

Applicant(s)

Thomas Feilkas, Grafing, GERMANY;
Claus Schaffrath, Munchen, GERMANY;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/822,706 08/17/2006
and is a CIP of 10/811,330 03/26/2004 PAT 7,787,932
which claims benefit of 60/494,935 08/13/2003

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)
EUROPEAN PATENT OFFICE (EPO) 06016945 08/14/2006
EUROPEAN PATENT OFFICE (EPO) 03 006 782.1 03/26/2003

Request to Retrieve - This application either claims priority to one or more applications filed in an intellectual property Office that participates in the Priority Document Exchange (PDX) program or contains a proper **Request to Retrieve Electronic Priority Application(s)** (PTO/SB/38 or its equivalent). Consequently, the USPTO will attempt to electronically retrieve these priority documents.

If Required, Foreign Filing License Granted: 08/30/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/838,300**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

REGISTERING MR PATIENT DATA ON THE BASIS OF GENERIC MODELS

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

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

Jeffrey C. Hood
Meyertons Hood Kivlin Kowert & Goetzel PC
P.O. Box 398
Austin TX 78767-0398

MAILED

MAR 21 2012

OFFICE OF PETITIONS

In re Application of
Kumar, et al.
Application No. 11/838,387
Filed: August 14, 2007
Attorney Docket No. 6150-05601

: 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 28, 2012, 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.

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 reference sets forth an improper filing date for Provisional Application No. 60/893,145 which was filed March 6, 2007, not October 19, 2006.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) are required.

With respect to the statement of unintentional delay, 37 CFR § 1.78(a)(6) requires 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. 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)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

Receipt is acknowledged of the fee required by 37 CFR 1.78(a)(6)(ii).

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MATTHIAS SCHOLL
14781 MEMORIAL DRIVE
SUITE 1319
HOUSTON TX 77079

MAILED

OCT 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Yan et al.	:	
Application No.: 11/838444	:	ON PETITION
Filing or 371(c) Date: 08/14/2007	:	
Attorney Docket Number:	:	
SZYL-01101-UUS	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed September 21, 2011.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed August 21, 2009. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper (timely) reply having been received, the application became abandoned on November 22, 2009.

Applicant files the present petition, and an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 2832 for processing of the Amendment filed in response to the Office action in the normal course of business.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SNR DENTON US LLP
P.O. BOX 061080
CHICAGO IL 60606-1080

MAILED

DEC 14 2010

OFFICE OF PETITIONS

In re Patent No. 7,741,538
Issue Date: June 22, 2010
Application No. 11/838,724
Filed: August 14, 2007
Attorney Docket No. DEKM:158USD2

DECISION ON PETITION

This is a decision on the Request For Certificate Of Correction, filed October 7, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name and residence. The Request is being treated as a Petition Under 37 CFR §3.81(b). A completed Certificate of Correction Form (PTO-1050) was submitted with Petition.

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

Petitioner requests that the present Petition was submitted to correct the assignee's name and residence on the previously submitted PTOL 85B and such was an error. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"Dekalb Genetics Corporation, Dekalb, IL (US)"

to:

--Monsanto Technology LLC, St. Louis, MO (US) --

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

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

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), has been submitted. However, the $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), was accompanied deposit account authorization to charge any required fees. As such, the fee has been charged as authorized. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/1050 submitted with Petition.

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 (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,741,538.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: SNR Denton US LLP
2000 McKinney Avenue
Suite 1900
Dallas, TX 75201-1858

UNITED STATES PATENT AND TRADEMARK OFFICE

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

King & Spalding LLP
P.O. Box 889
Belmont CA 94002-0889

MAILED

FEB 22 2011

OFFICE OF PETITIONS

In re Application of:	:
Mochly-Rosen et al.	: ON APPLICATION FOR
Application No. 11/838732	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 08/14/2007	:
Atty. Docket No.:	:
58600-8208.US03	:

This decision is in response to the petition filed November 12, 2010. The petition is properly treated as an Application for Patent Term Adjustment under 37 C.F.R. § 1.705(b).

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

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is thirty-one **(31)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On August 13, 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 sixty **(60)** days.

On November 12, 2010, applicant timely submitted the present application for patent term adjustment[1]. Applicants direct the Office's attention to the filing of the Information Disclosure Statement ("IDS"), filed November 4, 2009, after the filing of a reply to a non-final Office action on October 6, 2009.

Pursuant to 37 CFR 1.704(c)(8), the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is thirty-one **(31)** days.

[1] Office records show that the Issue Fee payment was received in the Office on November 12, 2010.

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

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

Telephone inquiries specific to this matter should be directed to Attorney Derek L. Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

Patent Term Adjustments

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

Application Number*: 11838732 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11838732

Application Filing Date	08/14/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	174
A Delays	174	PTO Manual Adjustment	-29
B Delays	0	Applicant Delay (APPL)	114
C Delays	0	Total PTA (days)	31

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
94	02/18/2011		P028	Adjustment of PTA Calculation by PTO		29	0
78	08/13/2010		MN/=.	Mail Notice of Allowance			0
77	08/13/2010		IREV	Issue Revision Completed			0
76	08/13/2010		DVER	Document Verification			0
75	08/13/2010		N/=	Notice of Allowance Data Verification Completed			0
74	08/13/2010		EX.A	Examiner's Amendment Communication			0
73	08/13/2010		CNTA	Allowability Notice			0
68	08/12/2010		C.AD	Correspondence Address Change			0
65	07/01/2010		MP033	Mail-Petition Decision - Granted			0
64	07/01/2010		P033	Petition Decision - Granted			0
63	06/26/2010		C.AD	Correspondence Address Change			0
62	05/21/2010		PET.	Petition Entered			0
60	04/16/2010		FWDX	Date Forwarded to Examiner			0
57	04/16/2010		ABN9	Disposal for a RCE / CPA / R129			0
59	04/13/2010		AMPR	RCE - AF Processed			0
58	04/13/2010	03/22/2010	RCEX	Request for Continued Examination (RCE)		22	47
56	04/13/2010		XT/G	Request for Extension of Time - Granted			0
54	04/13/2010		BRCE	Workflow - Request for RCE - Begin			0
61	04/10/2010		P574	Paralegal TD Accepted			0
53	04/05/2010		MCTAV	Mail Advisory Action (PTOL - 303)			0
52	03/31/2010		CTAV	Advisory Action (PTOL-303)			0
51	03/23/2010		FWDX	Date Forwarded to Examiner			0
55	03/22/2010		DIST	Terminal Disclaimer Filed			0
50	03/22/2010		A.NE	Amendment after Final Rejection			0
67	03/03/2010		IDSC	Information Disclosure Statement considered			0
49	03/03/2010		M844	Information Disclosure Statement (IDS) Filed			0
48	03/03/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
47	12/22/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
45	12/18/2009		CTFR	Final Rejection			0
46	11/04/2009		M844	Information Disclosure Statement (IDS) Filed			0
44	11/04/2009		IDSC	Information Disclosure Statement considered			0
43	11/04/2009		IDSC	Information Disclosure Statement considered			0
42	11/04/2009		RCAP	Reference capture on IDS			0
41	11/04/2009		M844	Information Disclosure Statement (IDS) Filed			0
40	11/04/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
39	11/04/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
38	10/27/2009		CRFE	CRF Is Good Technically / Entered into Database			0
36	10/17/2009		FWDX	Date Forwarded to Examiner			0
37	10/06/2009		C614	New or Additional Drawing Filed			0
35	10/06/2009	07/06/2009	A...	Response after Non-Final Action		92	23
34	10/06/2009		XT/G	Request for Extension of Time - Granted			0
31	07/24/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
30	07/21/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
33	07/02/2009		M865	Letter Requesting Interview with Examiner			0
29	06/16/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
28	05/15/2009		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
23	04/06/2009	10/14/2008	MCTNF	Mail Non-Final Rejection	174		-1
22	04/03/2009		CTNF	Non-Final Rejection			0
17	03/19/2009		PG-ISSUE	PG-Pub Issue Notification			0
16	03/05/2009		DOCK	Case Docketed to Examiner in GAU			0
15	12/08/2008		OIPE	Application Dispatched from OIPE			0
14	12/08/2008		FLRCPT.U	Filing Receipt - Updated			0
11	12/02/2008		CRFE	CRF Is Good Technically / Entered into Database			0
27	09/12/2008		M844	Information Disclosure Statement (IDS) Filed			0
21	09/12/2008		IDSC	Information Disclosure Statement considered			0
10	09/12/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
26	03/05/2008		M844	Information Disclosure Statement (IDS) Filed			0
20	03/05/2008		IDSC	Information Disclosure Statement considered			0
9	03/05/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
25	02/19/2008		M844	Information Disclosure Statement (IDS) Filed			0
24	02/19/2008		RCAP	Reference capture on IDS			0
19	02/19/2008		IDSC	Information Disclosure Statement considered			0
8	02/19/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
13	12/19/2007		ADDFLFEE	Additional Application Filing Fees			0
12	12/19/2007		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
7	10/19/2007		SQPR	SEQUENCE ERRORS			0
6	10/19/2007		FLRCPT.D	Filing Receipt			0
5	09/24/2007		L128	Cleared by L&R (LARS)			0
4	08/15/2007		L198	Referred to Level 2 (LARS) by OIPE CSR			0
3	08/15/2007		CLSS	CASE CLASSIFIED BY OIPE			0
2	08/14/2007		SCAN	IFW Scan & PACR Auto Security Review			0
1	08/14/2007		IEXX	Initial Exam Team nn			0

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DUANE MORRIS LLP – PHILADELPHIA
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

MAILED
MAR 25 2011
OFFICE OF PETITIONS

In re Application of	:	
CLARE, et al	:	
Application No. 11/838,825	:	DECISION ON PETITION
Filed: August 14, 2007	:	TO WITHDRAW
Attorney Docket No. R1617-00001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 28, 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 proper since the address is not that of the first named inventor. 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

cc: NEIL G. LONG
2630 RANDALL WAY
HAYWARD CA 94541

cc: GUY W. CHAMBERS
DUANE MORRIS LLP,
SPEAR TOWER, SUITE 2200,
ONE MARKET PLAZA
SAN FRANCISCO CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JAMES M. VAN BUSKIRK
11214 DECATUR PLAZA
OMAHA NE 68154

MAILED
APR 01 2011
OFFICE OF PETITIONS

In re Application of	:	
Glenn Ray Langley	:	
Application No. 11/838,868	:	DECISION ON PETITION
Filed: August 14, 2007	:	
Attorney Docket No. GLO706PAT	:	

This is a decision on the petition, filed January 6, 2011, 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 timely file a **proper** reply to the Final Office action mailed May 20, 2010. An Advisory Action was mailed on October 28, 2010. A Notice of Abandonment was mailed on December 29, 2010.

Applicant files the present petition and states, "I respectfully request a withdrawal of holding of abandonment in accordance with 37 CFR 1.181 for patent application 11/838,868. I make this request because I have moved three times during the examination of this patent. I submitted the RCE on 10/20/2010 which was adequate time with 2 extensions. I immediately contacted my client to send me the necessary money. He did not know my new address so I gave it to him. I had not received the payment in 3 weeks but before I could call him he said the letter had been returned. I finally received the letter but it was too late to get the money in. I could not cover it to make it on time because I lost my job as an engineer on November 23, 2010 and I am still not receiving unemployment. Please don't allow this application to be abandoned because my client got the wrong address or that I lost my job."

Regrettably, the showing above is not sufficient evidence for the granting of the petition to withdraw holding of abandonment. Therefore, the petition is dismissed at this time.

The rules of practice are clear that prosecution of an application to save it from abandonment must include such complete and proper action as the condition of the case may require. The admission of an amendment not responsive to the last Office action, or refusal to admit the same, shall not operate to save the application from abandonment. "[T]he admission of, or refusal to admit, any amendment after final rejection, and any proceedings relative thereto, shall not operate to relieve the application or patent under reexamination from it's condition as subject to appeal or to save the application from abandonment under § 1.135." See 37 CFR 1.116(a).

Petitioner is reminded that an Advisory Action does not start a new period for response. The application became abandoned because petitioner did not submit a proper reply to the final Office action mailed May 20, 2010.

Further, petitioner failed to provide a proper and required reply with the above petition submitted on June 6, 2011.

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 $1,620.00 petition fee.

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

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

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

By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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

/Karen Creasy/
Karen Creasy
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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SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
12275 EL CAMINO REAL, SUITE 200
SAN DIEGO CA 92130

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of :
Patrick K. Hazel et al. :
Application No. 11/839,053 :
Filed: August 15, 2007 :
Attorney Docket No. **13CT-128228** :

ON PETITION

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed March 23, 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 24, 2010.

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

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

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

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Clay Von Mueller) was ever given a power of attorney to act on behalf of inventors Patrick Hazel, Scott Yale or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

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/
JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
12275 EL CAMINO REAL, SUITE 200
SAN DIEGO CA 92130

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Application of :
Patrick K. Hazel et al. :
Application No. 11/839,053 : ON PETITION
Filed: August 15, 2007 :
Attorney Docket No. **13CT-128228** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 16, 2011[1], to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed March 23, 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 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 Election previously filed on November 23, 2010, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

The petition is hereby **GRANTED**.

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

This application is being referred to Technology Center AU 3621 for appropriate action by the Examiner in the normal course of business on the reply received.

JoAnne Burke
Petitions Examiner
Office of Petitions

[1] The Office acknowledges the three (3) month extension of time filed with the instant petition to have the renewed petition considered to be timely filed.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111031

DATE : October 31, 2011

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 11/839,086

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

The correction is approved as not changing scope of invention and per change of inventorship as per CFR 1.48.

/NICK CORSARO/
Supervisory Patent Examiner.Art Unit 2617

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OCCHIUTI ROHLICEK & TSAO, LLP
10 FAWCETT STREET
CAMBRIDGE MA 02138

MAILED
JUN 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,659,982	:	
Issue Date: February 9, 2010	:	
Application No. 11/839,099	:	ON PETITION
Filed: August 15, 2007	:	
Attorney Docket No. 45201-034001	:	

This is a decision on the petition filed February 26, 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.

Petitioner alleges the error to be corrected was made by the Patent and Trademark Office. Assignment data printed on the patent is based solely on the information supplied on The Fee(s) Transmittal Form (PTOL-85B). The assignment data on the patent was the same as indicated on the Fee Transmittal Form provided by applicant so the file record shows no error on the part of the Office.

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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DONALD J. ERSLER, S.C.
725 GARVENS AVENUE
BROOKFIELD WI 53005

MAILED

SEP 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Inzeo, Joseph A.	:	
Application No. 11/839,105	:	ON PETITION
Filed: August 15, 2007	:	
Attorney Docket No. 1806	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of Substitute Drawings, as required by the Notice of Allowability, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _20110429__

DATE : April 28, 2011

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/839,173 Patent No.: 7,734,435

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

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

Comments: _____

DREW A. DUNN
SUPERVISORY PATENT EXAMINER
SPE

_2857_
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MAILED
JUN 29 2011
OFFICE OF PETITIONS

BABCOCK & WILCOX POWER GENERATION GROUP, INC.
PATENT DEPARTMENT
20 SOUTH VAN BUREN AVENUE
BARBERTON, OH 44203

In re Application of Wessel et al. :
Application No. 11/839,285 : Decision on Petition
Filing Date: August 15, 2007 :
Attorney Docket No. Case 7191 :

This is a decision on the petition under 37 CFR 1.137(b) filed June 15, 2011, which requests revival of 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 November 8, 2010, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on February 9, 2011. A Notice of Abandonment was mailed June 7, 2011.

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 request for continued examination ("RCE") and amendment, (2) the required petition fee of $1,620, 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.

Technology Center Art Unit 3785 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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KRAGULJAC & KALNAY
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SUMMIT ONE SUITE 510
INDEPENDENCE OH 44131

MAILED
JAN 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Durand, et al.	:	
Application No. 11/839,313	:	ON PETITION
Filed: August 15, 2007	:	
Attorney Docket No. 2005-1036	:	

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed December 15, 2010.

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

The above-identified application became abandoned for failure to timely file a proper response to the final Office action, mailed March 25, 2010, which set a shortened statutory period for reply of three months. Applicant filed an Amendment on September 27, 2010, made timely by obtaining a three month extension of time, and by the fact that September 25, 2010 fell on a Saturday. However, the Examiner mailed an Advisory Action on October 4, 2010, stating that the Amendment would not be entered because it failed to place the application in condition for allowance. As such, the application became abandoned on September 26, 2010. The Office mailed a Notice of Abandonment on October 5, 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 an RCE.

The application is being forwarded to Group Art Unit 3766 for consideration of the RCE, filed December 15, 2010.

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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HOVEY WILLIAMS LLP
10801 MASTIN BLVD., SUITE 1000
OVERLAND PARK KS 66210

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Application of	:	
Clark A. Levsen	:	
Application No. 11/839,382	:	DECISION ON PETITION
Filed: August 15, 2007	:	
Attorney Docket No. 37204-CIP1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 4, 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 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 August 8, 2010. A Notice of Abandonment was mailed November 17, 2010.

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

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

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

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

This application is being referred to Technology Center AU 3724 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Bernard Huff
10301 Hickman Mills Drive, Suite 200
Kansas City, Missouri 64137

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

MAILED

JUN 16 2011

OFFICE OF PETITIONS

In re Application of:
James H. A. McKee et al.
Application No. 11/839,408
Filed: August 15, 2007
Attorney Docket No. 669-160

PETITION DECISION

This is a decision on the petitions under 37 CFR 1.183, filed April 14, 2011, which is being treated as a petition under 37 CFR 1.48(a) and 37 CFR 1.183 to waive the requirements of 37 CFR 1.64.

The petitions are **GRANTED.**

37 CFR 1.48(a) correction of inventorship in a non-provisional application 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).

Petitioner requests that the inventorship of the instant application be corrected by adding James Mantyla and Rick Alan Parkinson as a co-inventors. The originally named inventor, James McKee, who signed the originally filed declaration, is allegedly refusing to sign the replacement declaration listing McKee, Mantyla and Parkinson as co-inventors. Petitions under 37 CFR 1.47 are only applicable to the initial execution of an original oath or declaration and are not applicable to supplemental oaths or declarations by the originally signing inventor. In such circumstances, the USPTO will consider a petition under 37 CFR 1.183 requesting waiver or the requirements of 37 CFR 1.64 that each of the actual inventors execute the supplemental oath or declaration.

MPEP 603 states in part:

> When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a).

In discussing waiver requirements under 37 CFR 1.183, the Office is guided by proof similar to that required when an applicant is unavailable or refuses to sign. Petitioner indicates that McKee refuses to sign the replacement declaration.

MPEP 409.03(d) (II) states in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

The petition provides evidence that non-signing inventor McKee cannot be located or refuses to sign the replacement declaration.

In view of the papers filed April 14, 2011, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, failed to properly set forth the inventorship, and accordingly, the inventorship has been corrected in compliance with 37 CFR 1.48(a). The inventorship has been changed by the addition of James Mantyla and Rick Alan Parkinson.

The application is being forwarded to Technology Center Art Unit 3749 for consideration of the Request for Continued Examination filed January 18, 2011 in due course.

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

David Bucci
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/839,408	08/15/2007	3749	2584	669-160	27	2

CONFIRMATION NO. 8469

CORRECTED FILING RECEIPT

23869
HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

OC000000048246301

Date Mailed: 06/16/2011

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)

James H.A. McKee, Midhurst, CANADA;
James Mantyla, Barrie, ON, CANADA;
Rick Alan Parkinson, Barrie, ON, CANADA;

Assignment For Published Patent Application

CANPLAS INDUSTRIES LTD., Barrie, CANADA

Power of Attorney: The patent practitioners associated with Customer Number 23869

Domestic Priority data as claimed by applicant

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

If Required, Foreign Filing License Granted: 08/12/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/839,408**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

ROOF VENT FOR VENTING A BUILDING ENCLOSURE

Preliminary Class

454

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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SUITE 2400
AUSTIN TX 78701

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SEP 08 2010

OFFICE OF PETITIONS

In re Patent No. 7,695,943 :
Application No. 11/839,455 :
Filed: August 15, 2007 : ON PETITION
Issued: April 13, 2010 :
Attorney Docket No. CHEP:004USD1/ :
10712080

This is a decision on the petition filed July 8, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

A Certificate of Correction was issued on August 10, 2010.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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

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MAR 27 2012
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of	:
Wang, et al.	: DECISION ON PETITION
Application No. 11/839,464	:
Filed: August 15, 2007	:
Atty. Dkt. No.: TI-61087	:

This decision is in response to the petition under 37 CFR 1.137(b), filed March 6, 2012.

The petition is **GRANTED**.

The application became abandoned October 29, 2011 for failure to timely submit a proper reply to the non-final Office action mailed July 28, 2011. The non-final Office action set a three month shortened statutory period of time for reply. This decision precedes Notice of Abandonment.

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

The 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 2857 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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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MAR 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Keenan et al.	:	
Application No. 11/839,487	:	ON PETITION
Filed: August 15, 2007	:	
Attorney Docket No. OPTIS.171A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 28, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to file a reply in a timely manner to the Restriction Requirement, mailed July 22, 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 timely obtained. Accordingly, the application became abandoned on August 23, 2010.

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

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing Application Number 12/986,112.

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	11839496
Filing Date	15-Aug-2007
First Named Inventor	Dmitry DAIN
Art Unit	2462
Examiner Name	KEVIN HARPER
Attorney Docket Number	027484-000600US
Title	SYSTEMS AND METHODS FOR A COGNITIVE RADIO HAVING ADAPTABLE CHARACTERISTICS

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 20350

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

10.40(b)(4)

Certifications

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

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

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

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

Name	Shared Spectrum Company
Address	1595 Spring Hill Road, Suite 700
City	Vienna
State	VA
Postal Code	22182
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Richard S. Meyer/
Name	Richard S. Meyer
Registration Number	32541

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Decision Date : March 26, 2012

In re Application of :

Dmitry DAIN

Application No : 11839496

Filed : 15-Aug-2007

Attorney Docket No : 027484-000600US

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 March 26, 2012

The request is **APPROVED.**

The request was signed by Richard S. Meyer (registration no. 32541) on behalf of all attorneys/agents associated with Customer Number 20350 . All attorneys/agents associated with Cusotmer Number 20350 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	Shared Spectrum Company
Name2	
Address 1	1595 Spring Hill Road, Suite 700
Address 2	
City	Vienna
State	VA
Postal Code	22182
Country	US

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

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

Office of Petitions

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c/o MERCK
2000 Galloping Hill Road
Mail Stop: K-6-1, 1990
Kenilworth NJ 07033

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JAN 12 2011

OFFICE OF PETITIONS

In re Application of	:	
Putman, et al.	:	
Application No. 11/839,746	:	ON APPLICATION FOR
Filed: August 16, 2007	:	PATENT TERM ADJUSTMENT
Atty Docket No. 2006.975US	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b), filed October 21, 2010. Applicants submit that the patent term adjustment to be indicated on the patent is four hundred seventeen (417) days, not three hundred thirty-eight (338) 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.

In addition, applicants disclose that that the Office failed to enter a reduction for the October 9, 2008 reply to the Notice to File Missing Parts of Nonprovisional Application, mailed April 11, 2008. Thus, applicants assert that a period of reduction of 90 days for applicant delay should be entered in connection with the filing of their reply on October 9, 2008, pursuant to 37 CFR 1.704(b).

To the extent that applicants request 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 cannot make a determination on the correctness of the patent term adjustment until the patent has issued. Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

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

To the extent that applicants otherwise request correction of the initial determination of patent term adjustment (PTA), the application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the

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

mailing of the Notice of Allowance is two hundred forty-eight (248) days. A copy of the updated PAIR screen, showing the determination, is enclosed.

On July 26, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 338 days.

In the present petition applicants disclose that the Office failed to enter a reduction for the October 9, 2008 reply to the Notice to File Missing Parts of Nonprovisional Application, mailed April 11, 2008. Pursuant to 37 CFR 1.704(b), a period of reduction of 90 days should have been entered in connection with the October 9, 2008 reply to the Notice to File Missing Parts of Nonprovisional Application, mailed April 11, 2008.

37 CFR 1.704(b) provides that:

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

In this instance, applicants failed to engage in reasonable efforts to conclude processing of the application by failing to reply to the Notice to File Missing Parts of Nonprovisional Application, mailed April 11, 2008, within the three-month period provided for in 37 CFR 1.704(b). Applicants did not file a response until October 9, 2008. Accordingly, a period of reduction of 90 days is being entered for the period beginning

on July 12, 2008, the day after the date that is three months after the date of mailing of the Notice, and ending on October 9, 2008, the date applicants' reply was filed.

In view thereof, the determination of patent term adjustment at the time of mailing of the Notice of Allowance is **248 days** (362 days of Office delay - 114 (90 + 24) days of applicant delay).

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen for Application No. 11/839,746

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11/839,746 SYNTHESIS, POLYMORPHS, AND PHARMACEUTICAL FORMULATION OF FAAH INHIBITORS

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Patent Term Adjustment

Filing or 371(c) Date:	08-16-2007	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	362
A Delays:	362	PTO Manual Adjustments:	-90
B Delays:	0	Applicant Delays:	24
C Delays:	0	Total PTA Adjustments:	248

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
61	01-10-2011	Adjustment of PTA Calculation by PTO		90	0
52	07-26-2010	Mail Notice of Allowance			0
51	07-22-2010	Issue Revision Completed			0
50	07-22-2010	Document Verification			0
49	07-22-2010	Notice of Allowance Data Verification Completed			0
48	07-22-2010	Case Docketed to Examiner in GAU			0
47	07-20-2010	Notice of Allowability			0
46	06-17-2010	Information Disclosure Statement considered			0
44	06-24-2010	Date Forwarded to Examiner			0
43	06-17-2010	Response after Non-Final Action		24	36
42	06-17-2010	Request for Extension of Time - Granted			0
41	06-17-2010	Reference capture on IDS			0
40	06-17-2010	Information Disclosure Statement (IDS) Filed			0
39	06-17-2010	Information Disclosure Statement (IDS) Filed			0
38	02-25-2010	Electronic Review			0
37	02-24-2010	Email Notification			0
36	02-24-2010	Mail Non-Final Rejection			0
35	02-18-2010	Non-Final Rejection			0
30	10-15-2007	Information Disclosure Statement considered			0
29	01-02-	Date Forwarded to Examiner			0

	2010			
28	11-12-2009	Response to Election / Restriction Filed		0
27	10-13-2009	Electronic Review		0
26	10-13-2009	Email Notification		0
25	10-13-2009	Mail Restriction Requirement	362	-1
24	10-08-2009	Requirement for Restriction / Election		0
22	01-30-2009	Case Docketed to Examiner in GAU		0
21	01-30-2009	Email Notification		0
20	01-29-2009	PG-Pub Issue Notification		0
19	12-15-2008	IFW TSS Processing by Tech Center Complete		0
18	10-09-2008	New or Additional Drawing Filed		0
17	10-15-2007	Information Disclosure Statement (IDS) Filed		0
16	10-31-2008	Application Dispatched from OIPE		0
15	10-17-2008	Email Notification		0
14	10-17-2008	Email Notification		0
13	10-17-2008	Change in Power of Attorney (May Include Associate POA)		0
12	10-16-2008	Sent to Classification Contractor		0
11	10-17-2008	Filing Receipt - Updated		0
10	10-09-2008	Additional Application Filing Fees		0
9	10-09-2008	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic		0
8	10-09-2008	Applicant has submitted new drawings to correct Corrected Papers problems		0
7	04-11-2008	Filing Receipt		0
6	04-11-2008	Notice Mailed--Application Incomplete--Filing Date Assigned		0
5	10-15-2007	Information Disclosure Statement (IDS) Filed		0
4	08-17-2007	Cleared by OIPE CSR		0
3	08-17-2007	Cleared by OIPE CSR		0
2	08-16-2007	IFW Scan & PACR Auto Security Review		0
1	08-16-2007	Initial Exam Team nn		0

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MOORE & VAN ALLEN, PLLC FOR IBM
P.O. BOX 13706
RESEARCH TRIANGLE PARK NC 27709

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Guido et al.	:	
Application No. 11/839,850	:	DECISION GRANTING PETITION
Filed: August 16, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. RSW920040110US2_87	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 21, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Further, 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.

Any inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751.

This matter is being referred to Technology Center Art Unit 2174 for appropriate action on the amendment filed October 21, 2010, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

cc: Charles L. Moore
430 Davis Drive, Suite 500
Morrisville, N.C. 27560

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/839,850	08/16/2007	2174	2050	RSW920040110US2_87	29	6

CONFIRMATION NO. 9220

CORRECTED FILING RECEIPT

44870
MOORE & VAN ALLEN, PLLC For IBM
P.O. Box 13706
Research Triangle Park, NC 27709

OC000000044620431

Date Mailed: 11/22/2010

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

Applicant(s)

Patrick R. Guido, Cary, NC;
Robert C. Leah, Cary, NC;
Paul F. McMahan, Apex, NC;
Wayne B. Riley, Cary, NC;

Power of Attorney: The patent practitioners associated with Customer Number 44870

Domestic Priority data as claimed by applicant

This application is a CON of 10/711,701 09/30/2004 PAT 7,376,900

Foreign Applications

If Required, Foreign Filing License Granted: 08/30/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/839,850**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND SYSTEM TO CONTROL OPERATION OF A PORTLET

Preliminary Class

715

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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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.

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NOT GRANTED

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

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ULMER & BERNE, LLP
Attn: Diane Bell
600 Vine Street
Suite 2800
Cincinnati, OH 45202-2409

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Salahuddin F. Khan, et al.	:	
Application No. 11/839,910	:	DECISION ON PETITION
Filed: August 16, 2007	:	TO WITHDRAW
Attorney Docket No. 33888-05	:	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 28, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Eric M. Robbins 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 October 4, 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: **Aidco International**
One Kovach Drive
Cincinnati, OH 45215

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/839,910	08/16/2007	Salahuddin F. Khan	33888-05

CONFIRMATION NO. 9321

POWER OF ATTORNEY NOTICE

69082
ULMER & BERNE, LLP
ATTN: DIANE BELL
600 VINE STREET
SUITE 2800
CINCINNATI, OH 45202-2409

OC000000044603068

Date Mailed: 11/19/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/28/2010.

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

/tsjohnson/

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

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In re Application of	:	
Awata et al.	:	
Application No. 11/840042	:	DECISION ON PETITION
Filing Date: 16 August 2007	:	
For: AUTOMATIC ANALYZER	:	

This is a decision on the petition under 37 CFR § 1.48(a) filed 20 May 2011.

On 20 May 2011, the present petition and a check for the $130.00 petition fee were filed. Petitioner requests amendment of the inventorship to include Werner Döppen and Dietmar Kappelhoff. In support of the petition, a statement from inventors Werner Döppen and Dietmar Kappelhoff that the error in inventorship occurred without deceptive intention, have been included. Also submitted was a declaration under 37 CFR § 1.63 signed by each of the inventors. Petitioner requests that inventors Werner Döppen and Dietmar Kappelhoff be added as actual inventors of the above-identified patent application.

37 CFR 1.48 Correction of inventorship states, in part:

(a) If the inventive entity is set forth in error in an executed 1.63 oath or declaration in an application, other than a reissue 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 application may be amended to name onth the actual inventor or inventors. . . . Such amendment must be accompanied by:

(1) A petition including 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 herpart;

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

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

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

A review of the record reveals that petitioner has complied with all the conditions in 37 CFR § 1.48(a). The petition is granted. A corrected filing receipt will be issued naming the actual inventors of the above-identified patent, namely, Yasunao Awata, Kazuhiro Shimada, Yoshimitsu Takagi, Toshihide Orihashi, Shigeki Matsubara, Werner Döppen, and Dietmar Kappelhoff.

PETITION GRANTED

Jill Warden/
Supervisory Patent Examiner
Art Unit 1773
Technology Center 1700
Chemical Materials & Engineering

OK TO ENTER: /RM/

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentee: Robert F. Bigelow, Jr., et al.
Patent No.: 8,029,358 B2
Issued: October 4, 2011
Title: GAMING DEVICE HAVING FREE GAME BONUS WITH A CHANGING MULTIPLIER
Docket No.: 3718611-04425

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 C.F.R. §§ 1.322 & 1.323

Certificate of Correction Branch
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

It is respectfully requested that the above-referenced patent be amended as follows:

IN THE CLAIMS:

In Claim 8, column 11, line 54, replace "(b)" with --(c)--.

In Claim 8, column 11, line 59, replace "(c)" with --(d)--.

In Claim 14, column 12, lines 9 to 10, replace "plurality of multipliers" with --multiplier-- and "free plays of the second game" with --first one of the number of free plays--.

In Claim 15, column 12, line 27, replace "the multiplier" with --a multiplier--.

In Claim 30, column 13, line 35, between "the" and "free" add --current--.

In Claim 31, column 13, line 39, between "the" and "free" add --current--.

In Claim 50, column 15, line 22, replace "the multiplier" with --a multiplier--.

In Claim 58, column 16, line 26, delete "any."

In Claim 65, column 16, line 43, between "the" and "free" add --current--.

In Claim 66, column 16, line 48, between "the" and "free" add --current--.

REMARKS

Upon the careful review of recently issued U.S. Patent No. 8,029,358 B2, the above-listed mistakes were noted. Patentee prepared this request for correction in order to correct these mistakes. These mistakes are of a clerical nature and of minor character, and occurred in good faith. Thus, the correction of these mistakes does not constitute new matter and does not make necessary a reexamination of the patent. Further, the requested changes to the claims do not change the scope of Patentee's rights granted under this patent.

Since certain of the above-listed mistakes appear to be the fault of the Patent Office, and since certain of the above-listed mistakes are of a clerical nature and are not the fault of the Patent Office, Patentee is hereby requesting the issuance of a Certificate of Correction pursuant to 37 C.F.R. §§ 1.322 and 1.323. A proposed Certificate of Correction is submitted herewith.

Please charge Deposit Account No. 02-1818 the $100.00 fee and any additional fees due in connection with this Request.

Patentee respectfully solicits the granting of the requested Certificate of Correction.

If there are any questions, please telephone the undersigned.

Respectfully submitted,

K&L Gates LLP

By: Adam H. Masia

Adam H. Masia
Reg. No. 35,602
Customer No. 29159
(312) 807–4284

Dated: November 2, 2011

OK TO ENTER: /RM/

PTO/SB/44 (09-07)
Approved for use through 08/31/2013. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 8,029,358 B2

APPLICATION NO.: 11/840,048

ISSUE DATE : October 4, 2011

INVENTOR(S) : Robert F. Bigelow, Jr., et al.

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

IN THE CLAIMS:

In Claim 8, column 11, line 54, replace "(b)" with --(c)--.

In Claim 8, column 11, line 59, replace "(c)" with --(d)--.

In Claim 14, column 12, lines 9 to 10, replace "plurality of multipliers" with --multiplier-- and "free plays of the second game" with --first one of the number of free plays--.

In Claim 15, column 12, line 27, replace "the multiplier" with --a multiplier--.

In Claim 30, column 13, line 35, between "the" and "free" add --current--.

In Claim 31, column 13, line 39, between "the" and "free" add --current--.

In Claim 50, column 15, line 22, replace "the multiplier" with --a multiplier--.

In Claim 58, column 16, line 26, delete "any."

In Claim 65, column 16, line 43, between "the" and "free" add --current--.

In Claim 66, column 16, line 48, between "the" and "free" add --current--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Adam H. Masia, K&L Gates LLP, P.O. Box 1135, Chicago, Illinois 60690-1135

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

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MAILED
SEP 06 2011
OFFICE OF PETITIONS

In re Patent of Muchowski et al	:	
Patent No. 7,994,338	:	
Issued: August 9, 2011	:	DECISION ON PETITION
Application No. 11/840,138	:	UNDER 37 CFR 1.705(d)
Filed: August 16, 2007	:	
Attorney Docket No. 075082-0203		

This is a decision on the petition filed on August 19, 2011, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred forty-nine (749) days.

The petition is **dismissed**.

Patentees' impliedly dispute the period of time excluded from B delay for appellate review. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is (15) days, beginning on March 17, 2011, the date of filing of the notice of appeal and ending on March 31, 2011, the subsequent date of the mailing of a notice of allowance. Thus, B delay is 343 (358 - 15) days.

Accordingly, the patent term adjustment remains 470 days of A delay + 343 days of B delay - 79 days of Applicant delay, which equals 734 days.

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

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

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). This fee is required and will not be refunded. No additional fees are required.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GLOBAL PATENT GROUP - APX
1005 NORTH WARSON ROAD
SUITE 201
ST. LOUIS, MO 63132

MAILED
NOV 23 2010
OFFICE OF PETITIONS

In re Application of	:	
Gant et al.	:	
Application No. 11/840,143	:	DECISION ON PETITION
Filed: August 16, 2007	:	
Attorney Docket No. APX0044-201-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 27, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 7, 2010, as required by the Notice of Allowance and Fee(s) Due mailed July 7, 2010. Accordingly, the application became abandoned on October 8, 2010. A Notice of Abandonment was mailed October 22, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 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 the undersigned at (571)272-6059.

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/840,160	08/16/2007	Craig Schurter	SCH07301	9824

50488 7590 09/07/2010
ALLEMAN HALL MCCOY RUSSELL & TUTTLE LLP
806 SW BROADWAY
SUITE 600
PORTLAND, OR 97205-3335

EXAMINER
TANG, SON M

ART UNIT	PAPER NUMBER
2612	

MAIL DATE	DELIVERY MODE
09/07/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

SEP 07 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

ALLEMAN HALL MCCOY RUSSELL & TUTTLE LLP
806 SW BROADWAY
SUITE 600
PORTLAND OR 97205-3335

In re Application of:	:	
SCHURTER, CRAIG	:	
Application Serial No.: 11/840,160	:	DECISION
Filed: August 16, 2007	:	ON PETITION
For: **FIREFIGHTER RESPONSE SYSTEM**	:	

This is a decision on the petition filed March 03, 2010, under 37 CFR § 1.181 requesting for withdrawal of the final office action mailed February 05, 2010, and is also responsive to the petition filed August 16, 2010, requesting withdrawal of the petition filed March 03, 2010 in order to proceed with Appeal before the office.

As per petitioner request filed August 16, 2010, to withdraw the Petition filed on March 03, 2010 in the above identified application, the petition is **GRANTED.**

As per the decision above, the petition to withdraw the final rejection mailed February 05, 2010 is **DISMISSED AS MOOT.**

The application is being forwarded to the examiner for consideration of the Appeal Brief filed August 04, 2010.

Mark R. Powell

Mark R. Powell, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

OCT 01 2010

OFFICE OF PETITIONS

PATENT VENTURE GROUP
10788 CIVIC CENTER DRIVE
SUITE 215
RANCHO CUCAMONGA CA 91730

In re Application of	:	
Lan Van TA	:	
Application No. 11/840,197	:	DECISION ON PETITION
Filed: August 16, 2007	:	TO WITHDRAW
Attorney Docket No. LANTP001	:	FROM RECORD
	:	

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

The request is **APPROVED**.

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

The request was signed by Joe A. Brock II on behalf of the attorneys of record associated with Customer No. 52785.

The attorneys of record associated with Customer No. 52785 have been withdrawn.

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

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

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

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

cc: LAN VAN TA
8188 DAY CREEK BLVD, STE 100
RANCHO CUCAMONGA, CA 91739

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
11/840,197	08/16/2007	Lan Van Ta	LANTP001

CONFIRMATION NO. 9896

POWER OF ATTORNEY NOTICE

52785
PATENT VENTURE GROUP
10788 CIVIC CENTER DRIVE
SUITE 215
RANCHO CUCAMONGA, CA 91730

OC000000043800032

Date Mailed: 09/30/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/30/2010.

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

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

MAILED

FEB 08 2011

OFFICE OF PETITIONS

In re Application of	:
Hardy et al.	: DECISION ON PETITION
Application No. 11/840,262	: UNDER 37 CFR 1.78(a)(3)
Filed: August 17, 2007	: AND 37 CFR 1.78(a)(6)
Attorney Docket No. R0586-706931	:

This is a decision on the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed October 26, 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 amendment filed concurrently with the instant petition.

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 applications, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed on August 17, 2007 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. § 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

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

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

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 3714 for appropriate action on the Amendment submitted October 26, 2010, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: **ATTACHMENT**: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/840,262	08/17/2007	3714	675	R0586-706931	27	1

CONFIRMATION NO. 9998

CORRECTED FILING RECEIPT

37462
LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

OC000000045839102

Date Mailed: 02/04/2011

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

Applicant(s)

Dow K. Hardy, Marlborough, MA;
Mark E. Herrmann, Wellesley, MA;
John E. Taylor JR., Vero Beach, FL;
John F. Acres, Corvallis, OR;
Steven N. Kane, Brookline, MA;

Power of Attorney: The patent practitioners associated with Customer Number 37462

Domestic Priority data as claimed by applicant

This application is a CIP of 11/001,775 11/30/2004
which claims benefit of 60/569,030 05/07/2004
This application 11/840,262
is a CIP of 11/704,144 02/08/2007 *
which claims benefit of 60/771,505 02/08/2006
This application 11/840,262
is a CON of 11/780,882 07/20/2007
and claims benefit of 60/928,855 05/11/2007
and claims benefit of 60/838,234 08/17/2006
and said 11/704,144 02/08/2007
claims benefit of 60/838,234 08/17/2006
and said 11/780,882 07/20/2007
claims benefit of 60/928,855 05/11/2007
and claims benefit of 60/838,234 08/17/2006
and is a CIP of 11/001,775 11/30/2004
which claims benefit of 60/569,030 05/07/2004
and said 11/780,882 07/20/2007

is a CIP of 11/704,144 02/08/2007
which claims benefit of 60/771,505 02/08/2006
and claims benefit of 60/838,234 08/17/2006
(*)Data provided by applicant is not consistent with PTO records.

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: 08/27/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/840,262**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

METHOD AND APPARATUS FOR PROVIDING PLAYER INCENTIVES

Preliminary Class

463

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/29/11

TO SPE OF : ART UNIT 1637

SUBJECT : Request for Certificate of Correction for Appl. No.: 11840294 Patent No.: 8057991

CofC mailroom date: 12/14/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: **Should the changes to claim 8 be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

XApproved — **All** changes apply.

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

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

Comments: _____

/Gary Benzion/ 1637

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

February 8, 2012

Patent No. : 8,034,146 B2
Appl. No. : 11/840,305
Inventor(s) : Satoru Kobori
Issued : October 11, 2011
Title : **FILTER ELEMENT, METHOD OF MANUFACTURE AND USE**
Docket No. : **OP2007-004**

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

EFS-Web (Web-based Electronic Filing System) accessible through the Electronic Business Center (EBC);

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

Hiroe & Associates
Taras P. Bemko
4-3, Usa 3-chome
Gifu-city 500-8-368 JP JAPAN

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TUROCY & WATSON, LLP
127 PUBLIC SQUARE
57TH FLOOR, KEY TOWER
CLEVELAND OH 44114

MAILED
MAY 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Masahide Nishiura et al	:	
Application No. 11/840,380	:	DECISION ON PETITION
Filed: August 17, 2007	:	UNDER 37 CFR 1.313(c)
Attorney Docket No. TSUTP109US	:	

This is a decision on the petition under 37 CFR 1.313(c), filed May 23, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 4, 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 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110614

DATE : June 14, 2011

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction on Patent No.: 7,573,407

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:

/SHAWKI ISMAIL/
Supervisory Patent Examiner.Art Unit 2819

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 7742209 B2
Application No.: 11/840410
Inventor(s) : Kevin R. Curtis, et al.
Issued : June 22, 2010
Attorney Docket No.: 00767.02.0001

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: 02/06/2012

Address: Ajay A. Jagtiani
Vedder Price P.C.
1401 I Street, NW, Suite 1100
Washington, DC 20005

ts

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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
MAR 15 2012
OFFICE OF PETITIONS

Vedder Price, PC
1401 I Street, NW
Suite 1100
Washington DC 20005

In re Patent No. 7,742,209	:	
Issue Date: June 22, 2010	:	
Application No. 11/840,410	:	ON PETITION
Filed: August 17, 2007	:	
Attorney Docket No. 00767.02.0001	:	

This is a decision on the petition filed February 27, 2012, a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

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

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

MAILED
FEB 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Dow K. HARDY et al.	:	
Application No. 11/840,541	:	DECISION DISMISSING PETITIONS
Filed: August 17, 2007	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. R0586-706932	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 08, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

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

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

The petition does not comply with item (1).

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

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

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

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 Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

MAILED
SEP 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Dow K. Hardy et al	:	
Application No. 11/840,541	:	DECISION ON PETITION
Filed: August 17, 2007	:	UNDER 37 CFR 1.313(c)
Attorney Docket No. R0586-706932	:	

This is a decision on the petition under 37 CFR 1.313(c), filed September 29, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition 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;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

The Request for Continued Examination (RCE) submitted on September 29, 2011 does not include a proper submission as required under 37 CFR 1.114. The request for suspension of action is not a proper submission to the RCE.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the 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) 273-0025**
Office of Petitions

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

DORITY & MANNING, P.A.
P.O. BOX 1449
GREENVILLE, SC 29602-1449

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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

MAILED

SEP 29 2011

OFFICE OF PETITIONS

In re Application of
Dow K. Hardy et al
Application No. 11/840,541
Filed: August 17, 2007
Attorney Docket No. R0586-706932

DECISION ON PETITION
UNDER 37 CFR 1.313(c)

This is a decision on the petition under 37 CFR 1.313(c), filed September 29, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition 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;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

The Request for Continued Examination (RCE) submitted on September 29, 2011 does not include a proper submission as required under 37 CFR 1.114. The request for suspension of action is not a proper submission to the RCE.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the 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) 273-0025**
Office of Petitions

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

DORITY & MANNING, P.A.
P.O. BOX 1449
GREENVILLE, SC 29602-1449

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. : 7,944,915 B2
Ser. No. : 11/840,579
Inventor(s) : Larson
Issued : May 17, 2011
Title : THIRD PARTY VPN CERTIFICATION
Docket No. : 077580-0067 (VRNK-2CN2)
Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of
SALLAM, Ahmed S.
Application No. 11/840,770
Filed: August 17, 2007
Attorney Docket No. **NAI1P598/07.057.01**

DECISION ON PETITION TO WITHDRAW FROM RECORD

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

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

A review of the file record indicates that the power of attorney to Zilka-Kotab, PC has been revoked by the assignee of the patent application on March 07, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **PATENT CAPITAL GROUP**
6119 MCCOMMAS BLVD
DALLAS TX 75214

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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DOV ROSENFELD
5507 COLLEGE AVE
SUITE 2
OAKLAND, CA 94618

MAILED
MAY 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Wolfgang Sievers	:	
Application No. 11/840,796	:	DECISION GRANTING PETITION
Filed: August 17, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ESKO-041C	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 10, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 31, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2853 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON DC 20001

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Hensel et al.	:	DECISION ON APPLICATION
Application No. 11/840,928	:	FOR
Filed: August 17, 2007	:	PATENT TERM ADJUSTMENT
Atty Docket No. EMER-003/03US	:	
309814-2004	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§1.705(b)," filed March 11, 2011. Applicants request that the initial determination of patent term adjustment be corrected from four hundred twenty-three (423) to four hundred forty-two (442) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is FOUR HUNDRED FORTY-TWO (442) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On December 16, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 423 days. On March 11, 2011, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants dispute the reduction of 25 days for the filing of terminal disclaimers on November 1, 2010. Applicants point out that the terminal disclaimer, along with an

[1] The Issue Fee payment was also received on March 11, 2011.

information disclosure statement, was filed on October 13, 2010, 6 days after the filing of a reply on October 7, 2010. No terminal disclaimer or other paper was filed on November 1, 2010. Rather, on that date, the Office entered into the record a paper disapproving the terminal disclaimer.

Applicants state that the application is subject to a terminal disclaimer.

A review of the application history reveals that applicants are correct. A reply to the non-final Office action, including the terminal disclaimer, was filed on October 7, 2010 and the information disclosure statement (IDS) was filed on October 13, 2010. As the IDS did not include a 1.704(d) statement, entry of a period of reduction of 6 days (not 25), pursuant to §1.704(c)(8), is warranted. The reduction of 25 days has been removed and the reduction of 6 days entered.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is FOUR HUNDRED FORTY-TWO (442) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11840928 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11840928

Application Filing Date	08/17/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	448
A Delays	448	PTO Manual Adjustment	19
B Delays	0	Applicant Delay (APPL)	25
C Delays	0	Total PTA (days)	442

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
101	04/18/2011		P028	Adjustment of PTA Calculation by PTO		6	0
100	04/18/2011		P028	Adjustment of PTA Calculation by PTO	25		0
82	12/16/2010		MN/=.	Mail Notice of Allowance			0
81	12/14/2010		IREV	Issue Revision Completed			0
80	12/14/2010		DVER	Document Verification			0
79	12/14/2010		N/=.	Notice of Allowance Data Verification Completed			0
78	12/14/2010		EX.A	Examiner's Amendment Communication			0
77	12/14/2010		CNTA	Allowability Notice			0
76	12/10/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
73	12/06/2010		P574	Paralegal TD Accepted			0
71	12/01/2010		FWDX	Date Forwarded to Examiner			0
72	11/30/2010	11/30/2010	DIST	Terminal Disclaimer Filed			70
70	11/30/2010		A.NE	Amendment after Final Rejection			0
67	11/09/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
66	11/08/2010		CTFR	Final Rejection			0
65	11/03/2010		P575	Paralegal TD Not accepted			0
63	11/01/2010	10/07/2010	DIST	Terminal Disclaimer Filed		25	60
69	10/13/2010		RCAP	Reference capture on IDS			0
68	10/13/2010		M844	Information Disclosure Statement (IDS) Filed			0
64	10/13/2010		IDSC	Information Disclosure Statement considered			0
62	10/13/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
61	10/08/2010		FWDX	Date Forwarded to Examiner			0
60	10/07/2010		A...	Response after Non-Final Action			0
59	07/07/2010		MCTNF	Mail Non-Final Rejection			0
58	07/06/2010		CTNF	Non-Final Rejection			0
46	04/21/2010		FWDX	Date Forwarded to Examiner			0
50	04/07/2010		IDSC	Information Disclosure Statement considered			0
48	04/07/2010		RCAP	Reference capture on IDS			0
47	04/07/2010	04/07/2010	M844	Information Disclosure Statement (IDS) Filed			45
45	04/07/2010		ELC.	Response to Election / Restriction Filed			0
44	04/07/2010		XT/G	Request for Extension of Time - Granted			0
43	04/07/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
42	01/08/2010	10/17/2008	MCTRS	Mail Restriction Requirement	448		0.5
41	01/05/2010		CTRS	Restriction/Election Requirement			0
37	07/27/2009		WROIPE	Application Return from OIPE			0
36	07/27/2009		FLRCPT.U	Filing Receipt - Updated			0
38	07/10/2009		CRFE	CRF Is Good Technically / Entered into Database			0
35	05/29/2009		SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in			0
31	05/29/2009		ADDFLFEE	Additional Application Filing Fees			0
28	04/28/2009		MPEN	Mail Pre-Exam Notice			0
27	04/28/2009		SQPR	SEQUENCE ERRORS			0
26	04/22/2009		ADDFLFEE	Additional Application Filing Fees			0
24	04/20/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
22	04/16/2009		ROIPE	Application Return TO OIPE			0
21	04/16/2009		C.AD	Correspondence Address Change			0
20	03/27/2008		PG-ISSUE	PG-Pub Issue Notification			0
19	02/26/2008		DOCK	Case Docketed to Examiner in GAU			0
18	01/02/2008		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
14	12/31/2007		OIPE	Application Dispatched from OIPE			0
23	12/20/2007		W/OA	Pre-Exam Office Action Withdrawn			0
13	12/20/2007		PGPC	Sent to Classification Contractor			0
11	12/13/2007		ADDFLFEE	Additional Application Filing Fees			0
10	12/13/2007		CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems			0
9	11/14/2007		CPAP	Corrected Paper			0

8	11/14/2007	FLRCPT.O	Filing Receipt	0
49	10/25/2007	IDSC	Information Disclosure Statement considered	0
17	10/25/2007	M844	Information Disclosure Statement (IDS) Filed	0
5	10/25/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
4	10/01/2007	CRFE	CRF Is Good Technically / Entered into Database	0
16	09/20/2007	A.PE	Preliminary Amendment	0
3	08/20/2007	L194	Cleared by OIPE CSR	0
2	08/18/2007	SCAN	IFW Scan & PACR Auto Security Review	0
34	08/17/2007	SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in	0
30	08/17/2007	CLAIM	Claim Preliminary Amendment	0
15	08/17/2007	A.PE	Preliminary Amendment	0
7	08/17/2007	CRFL	CRF Disk Has Been Received by Preexam / Group / PCT	0
6	08/17/2007	PDREQUST	Request from applicant for the USPTO to retrieve the Priority Document	0
1	08/17/2007	IEXX	Initial Exam Team nn	0
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/840,970	08/19/2007	Kjell Schubert	M0002-1024	1270

24208 7590 08/31/2010
ROBERT PLOTKIN, PC
15 New England Executive Office Park
Burlington, MA 01803

EXAMINER
ROBINSON, MARSHON L

ART UNIT	PAPER NUMBER
2178	

NOTIFICATION DATE	DELIVERY MODE
08/31/2010	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):

RPLOTKIN@RPLOTKIN.COM

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Robert Plotkin, PC
45 Butternut Circle
Concord, MA 01742-1937

In re Application of: SCHUBERT K.
Application No. 11/840,970
Filed: 19 August, 2007
For: Document editing using anchors.

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 PCT-Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed June 30, 2010 to make the above-identified application special.

The petition is **GRANTED.**

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application is
(a) a national stage entry of the corresponding PCT application

Or

(b) a national application which forms the basis for the priority claim in the corresponding PCT application

Or

(c) *a* national stage entry of another PCT application (which can be filed in any competent receiving office) which claims priority to the corresponding PCT application

Or

(d) a national application claiming foreign domestic priority to the corresponding PCT application.
Applications subject to a secrecy order (35U.S.C.181) are excluded and not subject to participation in the PCT-PPH pilot program.

Or

(e) a continuing application (continuation, divisional, or continuation-in-part) of the U.S. application which satisfies one of the above (a) to (d) scenarios.

(2) The latest work product in the international phase of the PCT application corresponding to the U.S. application, namely the WO/ISA, or the WO/IPEA, or the IPER, indicates at least one claim in the PCT application has novelty, inventive step and industrial applicability. In case any observation is described in Box VIII of the WO/ISA, or the WO/IPEA, or the IPER which forms the basis for the PCT-PPH request, applicant must identify and explain why the claim(s) is/are not subject to any observation described in Box VIII irrespective of whether an amendment is submitted to correct the observation described in Box VIII. The U.S. application will not be eligible to participate in the PCT-PPH pilot program if applicant does not identify and explain why the claim(s) is/are not subject to the observation described in Box VIII.

Applicant may file a request to participate in the PCT-PPH pilot program on the basis of an International Search Report (ISR) only.

(3) Applicant must:
a. Ensure all the claims in the U.S. application sufficiently correspond or be amended to sufficiently correspond to one or more of those claims indicated as having novelty, inventive step and industrial applicability and free of any observation described in Box VIII in the latest work product of the corresponding PCT application and

b. Submit a claims correspondence table in English;

(4) Substantive Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of:
a. the latest international work product, WO/ISA, or WO/IPEA or PER, which indicated that the claim(s) has/have novelty, inventive step and industrial applicability along with an English translation thereof if the copy of the latest international work product is not in the English language, unless the U.S. application and the corresponding PCT application satisfy the relationship noted in (1)(a) above.

(6) Applicant must submit a copy of:
a. the claims from the corresponding PCT application which were indicated as having novelty, inventive step and industrial applicability in the latest work product of the PCT application,
b. an English translation of the claims and
c. a statement that the English translation is accurate.

If the claims in the U.S. application are identical to the claims from the corresponding PCT application, and are in the English language, applicant may just indicate such in the PCT-PPH request and it will not be necessary for applicant to submit a copy of the claims from the corresponding PCT application.

(7) Applicant must submit:
a. An IDS listing the documents cited in the work products in the international phase of the PCT application corresponding to the U.S. application, namely the WO/ISA, or the WO/IPEA, or the IPER,(unless already submitted in this application)
b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);

MP ~~(8) The required petition fee under 37 CFR 1.17(h).~~

The request to participate in the PPH pilot program and petition are found to comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Mano Padmanabhan/

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

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LAW OFFICE OF DAVID H. JUDSON
15950 DALLAS PARKWAY
SUITE 225
DALLAS TX 75248

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OFFICE OF PETITIONS

In re Application of :
Michael M. Afergan et al. :
Application No. 11/841,006 : DECISION ON PETITION
Filed: August 20, 2007 :
Attorney Docket No. AKAM-092C :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 2009, 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 6, 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 November 7, 2008. A Notice of Abandonment was mailed on February 18, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2457 for appropriate action by the Examiner in the normal course of business on the reply received October 7, 2009.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Perkins Coie LLP
700 Thirteenth Street, NW
Suite 600
Washington DC 20005-3960

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OFFICE OF PETITIONS

In re Application of :
Eissenstat, et al. :
Application No. 11/841,157 : ON APPLICATION FOR
Filed: August 20, 2007 : PATENT TERM ADJUSTMENT
Atty Docket No. **00956.8009.US01**

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705", filed September 21, 2011, which is properly treated under 37 C.F.R. § 1.705(b). Applicants submit that the patent term adjustment to be indicated on the patent is 291 days to date and 389 days at issuance, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction, 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 applicants assert that the initial patent term adjustment should be 291 days. A review of the application file history does not support this. The "A" delay is properly 137 days. The applicants' delay is 195 days. Accordingly, the determination of initial patent term adjustment is zero (0) days.

The Office is in receipt of the 200.00 for the fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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 (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Attorney-Advisor
Office of Petitions

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Perkins Coie LLP
700 Thirteenth Street, NW
Suite 600
Washington DC 20005-3960

In re Patent No. 8,048,871	: DECISION ON REQUEST
Eissenstat, et al.	: FOR
Issue Date: November 1, 2011	: RECONSIDERATION OF
Application No. 11/841,157	: PATENT TERM ADJUSTMENT
Filed: August 20, 2007	: and
Atty Docket No. **00956.8009.US01**	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 3, 2012, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred and thirty-three (333) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by three hundred and thirty-three (333) days is **GRANTED**.

Deposit account 50-2283 will be charged $200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by three hundred and thirty-three (333) days.

Telephone inquiries specific to this matter should be directed to the undersigned, at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,048,871 B2

DATED : Nov. 1, 2011

INVENTOR(S) : Eissenstat 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 (290) days

Delete the phrase "by 290 days" and insert – by 333 days--

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In re Patent No. 8,086,725	: DECISION ON
Liang, et al.	: REQUEST FOR RECONSIDERATION
Application No. 11/841,306	: of PATENT TERM ADJUSTMENT
Issue Date: December 27, 2011	:
Filed: August 20, 2007	:
Attorney Docket No. 16113-0497001	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed February 27, 2012, requesting that the patent term adjustment indicated on the above-identified patent be corrected from two hundred eighteen (218) days to three hundred forty-seven (347) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

On December 27, 2011, the instant application matured into U.S. Patent No. 8,086,725 with a patent term adjustment of two hundred eighteen (218) days. The Office determined a patent term adjustment of 218 days based upon 343 days of "A" delay and 27 days of "B" delay, reduced by 152 days of Applicant delay.

Petitioner argues that even though he filed an RCE on September 17, 2010, he should be awarded 37 CFR 1.703(b) "over three year" delay from the time the Office mailed a Notice of Allowance on August 22, 2011 until the issue date of the patent. In other words, Petitioner argue that no continued examination took place during this time period, and the Office should be accorded 128 additional days of delay pursuant to 37 CFR 1.703(b). Petitioner's argument has been considered, but is not persuasive.

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Petitioner's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 37 CFR 1.702(b)(1) as 27 days based on the application having been filed on August 20, 2007, and a request for continued examination under 132(b)

having been filed on September 17, 2010. In other words, the 128 day period beginning on the date of mailing of the Notice of Allowance on August 22, 2011 to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay".

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Petitioner does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8).

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[1] Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Petitioner'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), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. Websters Collegiate Dictionary, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination); 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at

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[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the 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[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on September 17, 2010, and the patent issued by virtue of that request on December 27, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on September 17, 2010 and ending on December 27, 2011 is not included in calculating Office delay.

In addition, petitioner also states that he was assessed Applicant delay of 61 days for filing a response to a December 27, 2010 Office action on May 27, 2010, but that he should have instead been assessed Applicant delay of 60 days because the due date (March 27, 2010) fell on a weekend. Petitioner's argument has been considered, and found to be persuasive.

CONCLUSION

In view thereof, the correct number of days of patent term adjustment is **two hundred nineteen (219) days** (343 days of "A" delay plus 27 days of "B" delay, reduced by 151 days of Applicant delay).

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[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two hundred nineteen (219) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 8,086,725 B2

DATED : **December 27, 2011**

INVENTOR(S) : Liang 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 218 days.

Delete the phrase "by 218 days" and insert – by 219 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

BioTechnology Law Group
12707 High Bluff Drive, Suite 200
San Diego, CA 92130-2037

MAILED

SEP 24 2010

OFFICE OF PETITIONS

In re Application of
Roger A. SABBADINI, et *al.*
Application No. 11/841,363
Filed: August 20, 2007
Attorney Docket No. **LPT-3001-CP4**

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 September 22, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 3, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1643 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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Commissioner for Patents
United States Patent and Trademark Office
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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE NW, SUITE 700
WASHINGTON, DC 20036

MAILED
MAY 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Yukihiko OHASHI	:	
Application No. 11/841,393	:	DECISION GRANTING PETITION
Filed: August 20, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **072056**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 20, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 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 3729 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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SCHNECK & SCHNECK
P.O. BOX 2-E
SAN JOSE, CA 95109-0005

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SEP 14 2010

OFFICE OF PETITIONS

In re Application of
Tom Wilson
Application No. 11/841,430
Filed: August 20, 2007
Attorney Docket No. ODM-009

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 5, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Thomas Schneck on behalf of all attorneys of record who are associated with customer No. 03897. All attorneys/agents associated with the Customer Number 03897 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed June 10, 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: TOM WILSON
NORDWESTBAHNSTRASSE 34A/13
VIENNA A-1020 AUSTRIA

cc: ON DEMANDD MICROELECTRONICS AG
DONAU-CITY-STRASSE 11
ARES TOWER 10 FLOOR
VIENNA 1220 AUSTRIA

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
11/841,430	08/20/2007	Tom Wilson	ODM-009

CONFIRMATION NO. 2023

POWER OF ATTORNEY NOTICE

3897
SCHNECK & SCHNECK
P.O. BOX 2-E
SAN JOSE, CA 95109-0005

OC000000043367969

Date Mailed: 09/07/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/05/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/07/11

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11841460 Patent No.: 8019182

CofC mailroom date: 09/28/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: Should the changes to claim 13 be approved?

Changes are approved.
Matthew Zelle
SPE 2624

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☒ **Approved** — **All** changes apply.

☐ **Approved In Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

Matthew C Bella — 2624

SPE — **Art Unit**

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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Rubin et al.	:	DECISION ON APPLICATION
Application No. 11/841,472	:	FOR PATENT TERM ADJUSTMENT
Filed: August 20, 2007	:	
Docket No. 16113-0368001	:	

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b), filed November 28, 2011. Applicants request that the calculation of Applicant Delay be corrected from 158 days to 156 days.

The application for patent term adjustment is **DISMISSED**.

On October 4, 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 0 days. On November 28, 2011, applicants timely submitted the instant application for patent term adjustment.[1]

Applicants argue the Office miscalculated a reduction based on an asserted misinterpretation of 35 U.S.C. 154(b)(2)(C)(ii). Applicants argue a three month date (37 CFR 1.704(b)) should be calculated from the first business day after a weekend, regardless of the date a reply is actually filed. Accordingly applicants argue the reply filed on November 24, 2009 in response to a non-final Office action, mailed June 26, 2009, should result in a 57, rather than a 59, day reduction.

[1] Office finance records indicate that the issue fee payment was received on November 28, 2011.

With respect to applicant delay, 35 U.S.C. 154(b)(2)(C)(ii) provides that:

With respect to adjustments to patent term made under the authority of paragraph (1)(B), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of 3 months that are taken to respond to a notice from the Office making any rejection, objection, argument, or other request, measuring such 3-month period from the date the notice was given or mailed to the applicant.

37 CFR 1.704(b) provides in pertinent part that:

…, an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

35 U.S.C. 21(b) provides that:

When the day, or the last day, for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or a Federal holiday within the District of Columbia, the action may be taken, or fee paid, on the next succeeding secular or business day.

Applicants are incorrect that the reduction assessed in connection with the November 24, 2009 reply should be 57 days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 CFR 1.704(b). The weekend exception does not apply to the period of applicant delay at issue. The Office action was mailed on June 26, 2009, with a shortened statutory period for reply of three (3) months, with extensions of time obtainable under 37 CFR 1.136(a). It is recognized that the three-month deadline, September 26, 2009, ended on a Saturday. However, in this instance, applicants did not exercise the 21(b) weekend exception to file a timely

response under 133 on the next business day - a Monday. Applicants timely filed a reply on November 24, 2009 with an extension of time. In other words, the November 24, 2009 reply was not timely filed pursuant to 35 U.S.C. 21(b). Thus, the period of reduction was properly calculated as 59 days, counting the number of days beginning on the day after the date that is three months after the date of mailing of the Office action, September 27, 2009, and ending on the date the reply was filed, November 24, 2009. Accordingly, the period of reduction of 59 days will be retained.

In view thereof, the determination of patent term adjustment at the time of mailing of the notice of allowance remains **zero (0) days** (147 days of Office delay - 158 days of Applicant delay). No change will be made to the total Applicant delay.

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 of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OFFICE OF PETITIONS

MORGAN, LEWIS & BOCKIUS, LLP (SF)
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO CA 94105

In re Application of	:	
Lazar et al.	:	
Application No. 11/841,530	:	DECISION GRANTING PETITION
Filed: August 20, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 067461-5018-US	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed November 22, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment and Application Data Sheet (ADS) filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications 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 applications has been included in an amendment to the first sentence of the specification following the title and ADS, 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 applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 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 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 applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751.

This matter is being referred to Technology Center Art Unit 1644 for appropriate action on the amendment and ADS filed November 22, 2010, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
11/841,530	08/20/2007	1644	500	067461-5016-US01	23	2

CONFIRMATION NO. 2183

CORRECTED FILING RECEIPT

67374
MORGAN, LEWIS & BOCKIUS, LLP (SF)
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO, CA 94105

OC000000044851972

Date Mailed: 12/08/2010

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)

Gregory Alan Lazar, Los Angeles, CA;
Sher Bahadur Karki, Pasadena, CA;

Assignment For Published Patent Application

Xencor, Inc., Monrovia, CA

Power of Attorney: The patent practitioners associated with Customer Number 67374

Domestic Priority data as claimed by applicant

This application is a CON of 11/090,981 03/24/2005 PAT 7,276,585
which claims benefit of 60/556,353 03/24/2004
and claims benefit of 60/573,302 05/21/2004
and claims benefit of 60/585,328 07/01/2004
and claims benefit of 60/586,837 07/09/2004
and claims benefit of 60/599,741 08/06/2004
and claims benefit of 60/607,398 09/02/2004
and claims benefit of 60/614,944 09/29/2004
and claims benefit of 60/619,409 10/14/2004
This application 11/841,530
is a CIP of 11/124,620 05/05/2005
which is a CIP of 10/822,231 03/26/2004 PAT 7,317,091

Foreign Applications

If Required, Foreign Filing License Granted: 10/15/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/841,530**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Immunoglobulin Variants Outside the Fc Region

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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www.uspto.gov

SLATER & MATSIL, L.L.P.
17950 PRESTON ROAD, SUITE 1000
DALLAS, TX 75252

MAILED
MAY 04 2011
OFFICE OF PETITIONS

In re Application of :
Jianmin Lu et al :
Application No. 11/841,534 : ON PETITION
Filed: August 20, 2007 :
Attorney Docket No. HW 06FW083

This is a decision on the petition, filed May 3, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 14, 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 2465 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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Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

MAILED

APR 20 2011

OFFICE OF PETITIONS

In re Application of	:	
Rolf E. Carlson	:	
Application No. 11/841,557	:	DECISION ON PETITION
Filed: August 20, 2007	:	TO WITHDRAW
Attorney Docket No. IGAM.005C1	:	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 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 Eric M. Nelson on behalf of all attorneys of record who are associated with customer No. 20995. All attorneys/agents associated with the Customer Number 20995 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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 October 21, 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: LEGAL IGAMING, INC.
C/O SKLAR WILLIAMS, LLP
8363 WEST SUNSET ROAD
SUITE 300
LAS VEGAS, NV 89113

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
11/841,557	08/20/2007	Rolf E. Carlson	IGAM.005C1

CONFIRMATION NO. 2218

POWER OF ATTORNEY NOTICE

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

OC000000047101427

Date Mailed: 04/12/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/11/2011.

- 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHOATE, HALL & STEWART LLP/WYETH LLC
PATENT GROUP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of Anthony F. Hadfield, et al. Application No. 11/841,638 Filed: August 20, 2007 Attorney Docket No. **2004658-1121** **(PC65020C2)**	: : : : :	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 November 18, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **WYETH LLC**
Patent Law Group
5 Giralda Farms
Madison, NJ 07940

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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DICKSTEIN SHAPIRO, LLP
1633 BROADWAY
NEW YORK, NY 10019

MAILED
JUN 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Vladimir Neyman, et al.	:	
Application No. 11/841,675	:	DECISION GRANTING PETITION
Filed: August 20, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. E3331.0692	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 21, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 17, 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 3691 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/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	11841678
Filing Date	20-Aug-2007
First Named Inventor	Vivek Sharma
Art Unit	2423
Examiner Name	CARMINE MALANGONE
Attorney Docket Number	06-IND-113 (328940-1300)
Title	DIGITAL RADIO FREQUENCY (RF) MODULATOR

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	/Andre M. Szuwalski/
Name	Andre M. Szuwalski
Registration Number	35701

UNITED STATES 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 18, 2012

In re Application of :

Vivek Sharma

Application No : 11841678

Filed : 20-Aug-2007

Attorney Docket No : 06-IND-113 (328940-1300)

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed April 18, 2012 , to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Office of Data Management.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

MAILED

JAN 25 2011

OFFICE OF PETITIONS

In re Application of	:	
Hardy, et al.	:	
Application No. 11/841,728	:	DECISION DISMISSING PETITIONS
Filed: August 20, 2007	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. R0586-706933	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 1, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The amendment is not acceptable as drafted since it improperly incorporates by reference a newly claimed prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim

under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b). This is true for provisional applications, as well. Accordingly, it is not possible to incorporate by reference Application No. 60/838,234, filed August 17, 2006.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matter is required.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

MAILED

MAR 01 2011

OFFICE OF PETITIONS

In re Application of :
Hardy, et al. :
Application No. 11/841,728 : DECISION GRANTING PETITIONS
Filed: August 20, 2007 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. R0586-706933 :

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 7, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **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 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, a nonprovisional application in the priority chain claiming the benefit of the newly claimed prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3714 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.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
11/841,728	08/20/2007	3714	1855	R0586-706933	70	4

CONFIRMATION NO. 2435

CORRECTED FILING RECEIPT

37462
LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

OC000000046193729

Date Mailed: 02/25/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Dow K. Hardy, Marlborough, MA;
Mark E. Herrmann, Wellesley, MA;
John E. Taylor JR., Vero Beach, FL;
John F. Acres, Corvallis, OR;
Steven N. Kane, Brookline, MA;

Power of Attorney: The patent practitioners associated with Customer Number 37462

Domestic Priority data as claimed by applicant

This application is a CIP of 11/001,775 11/30/2004
which claims benefit of 60/569,030 05/07/2004
This application 11/841,728
is a CIP of 11/704,144 02/08/2007
which claims benefit of 60/771,505 02/08/2006
and claims benefit of 60/838,234 08/17/2006
This application 11/841,728
is a CON of 11/780,882 07/20/2007
which is a CIP of 11/001,775 11/30/2004
and is a CIP of 11/704,144 02/08/2007
which claims benefit of 60/771,505 02/08/2006
and claims benefit of 60/838,234 08/17/2006
and said 11/001,775 11/30/2004
claims benefit of 60/569,030 05/07/2004
and said 11/780,882 07/20/2007
claims benefit of 60/838,234 08/17/2006
and claims benefit of 60/928,855 05/11/2007

This application 11/841,728
claims benefit of 60/928,855 05/11/2007

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 08/29/2007
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/841,728**
Projected Publication Date: Not Applicable
Non-Publication Request: No
Early Publication Request: No
**** SMALL ENTITY ****
Title

METHOD AND APPARATUS FOR PROVIDING PLAYER INCENTIVES

Preliminary Class

463

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative,

this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED

AUG 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Mark W. Miles	:	
Application Number: 11/841741	:	DECISION ON PETITION
Filing or 371(c) Date: 08/20/2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket Number:	:	
IRDM.31CPDCC18/IDC-0006BI	:	

This is a decision on the REMARKS ACCOMPANYING SUPPLEMENTAL APPLICATION DATA SHEET AND, IN THE ALTERNATIVE, PETITION TO CORRECT PRIORITY UNDER 37 CFR 37 CFR § 1.78(a)(3) , filed on May 24, 2010.

The petition is **DISMISSED AS MOOT.**

Petitioner asserts that the application as filed included both a preliminary amendment and an ADS. Petitioner concedes that the ADS filed with the original application papers did not properly specify the relationships between the prior-filed applications. As such, the claims of benefit were not properly entered in Office records. Petitioner asserts that the preliminary amendment filed with the application papers, however, did, in fact, properly specify the relationships between the prior-filed applications as required by 35 U.S.C. 120.

Upon review, the preliminary amendment filed on August 20, 2007, properly recited the desired claims of benefit under 35 U.S.C. § 120 to the prior-filed applications. As such, although the ADS submitted on filing did not correctly recite the claims of benefit under 35 U.S.C. § 120, the claims of benefit were nonetheless timely made pursuant to 37 CFR 1.78(a) via the preliminary amendment. Therefore, no petition under 37 CFR 1.78(a)(3) is necessary. Accordingly, the petition is dismissed as moot. No petition fee is due or has been charged.

Receipt of the supplemental ADS filed on May 24, 2010 is acknowledged. The benefit claims have been corrected. A corrected Filing Receipt is attached for petitioner's reference.

Any questions concerning this decision on petition may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is referred to Technology Center Art Unit 2873 for further processing. Thereafter, the application will be referred to the Office of Data Management for processing into a patent.

Christopher Bottorff
Supervisor
Office of Petitions

Encl: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/841,741	08/20/2007	2873	1860	IRDM.31CPDCC18/IDC-0006BI	28	3

CONFIRMATION NO. 2449

CORRECTED FILING RECEIPT

59747
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

OC000000042891356

Date Mailed: 08/05/2010

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)

Mark W. Miles, San Francisco, CA;

Assignment For Published Patent Application

IDC, LLC, San Francisco, CA

Power of Attorney: The patent practitioners associated with Customer Number 59747

Domestic Priority data as claimed by applicant

This application is a CON of 11/056,571 02/11/2005 PAT 7,379,227
which is a CON of 09/966,843 09/28/2001 PAT 6,867,896
which is a DIV of 09/056,975 04/08/1998 PAT 6,674,562
which is a CIP of 08/238,750 05/05/1994 PAT 5,835,255
and is a CIP of 08/554,630 11/06/1995 ABN
which is a CIP of 08/238,750 05/05/1994 PAT 5,835,255

Foreign Applications

If Required, Foreign Filing License Granted: 08/31/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/841,741**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND DEVICE FOR MODULATING LIGHT WITH SEMICONDUCTOR SUBSTRATE

Preliminary Class

359

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

MAILED
FEB 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Dow K. HARDY et al.	:	
Application No. 11/841,754	:	DECISION DISMISSING PETITIONS
Filed: August 20, 2007	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. R0586-706934	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 08, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

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 Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

MAILED
JUL 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Dow K. HARDY et al	:	
Application No. 11/841,754	:	DECISION ON PETITION
Filed: August 20, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. R0586-706934	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed June 21, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Michelle R. Eason at (571) 272-42313714. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3714 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/841,754	08/20/2007	3714	900	R0586-706934	36	3

CONFIRMATION NO. 2463

CORRECTED FILING RECEIPT

37462
LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

OC000000048761186

Date Mailed: 07/14/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Dow K. Hardy, Marlborough, MA;
Mark E. Herrmann, Wellesley, MA;
John E. Taylor JR., Vero Beach, FL;
John F. Acres, Corvallis, OR;
Steven N. Kane, Brookline, MA;

Power of Attorney: The patent practitioners associated with Customer Number 37462

Domestic Priority data as claimed by applicant

This application is a CIP of 11/001,775 11/30/2004
which claims benefit of 60/569,030 05/07/2004
This application 11/841,754
is a CIP of 11/704,144 02/08/2007
which claims benefit of 60/771,505 02/08/2006
This application 11/841,754
is a CON of 11/780,882 07/20/2007
which is a CIP of 11/001,775 11/30/2004
which claims benefit of 60/569,030 05/07/2004
and said 11/780,882 07/20/2007
is a CIP of 11/704,144 02/08/2007
which claims benefit of 60/771,505 02/08/2006
and claims benefit of 60/838,234 08/17/2006
and said 11/780,882 07/20/2007
claims benefit of 60/928,855 05/11/2007
and claims benefit of 60/838,234 08/17/2006
and said 11/704,144 02/08/2007

claims benefit of 60/838,234 08/17/2006
This application 11/841,754
claims benefit of 60/928,855 05/11/2007

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 08/30/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/841,754**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

METHOD AND APPARATUS FOR PROVIDING PLAYER INCENTIVES

Preliminary Class

463

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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HYPERION CATALYSIS INTERNATIONAL, INC.
LEGAL DEPARTMENT
930 CLOPPER ROAD
GAITHERSBURG, MD 20878

MAILED
DEC 07 2010
OFFICE OF PETITIONS

In re Application of	:	
Mikio Takai, et al.	:	
Application No. 11/841,761	:	DECISION ON PETITION
Filed: August 20, 2007	:	
Attorney Docket No. 10064-09370	:	

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**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 13, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed July 13, 2010. Accordingly, the date of abandonment of this application is October 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 payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Office of Data Management for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED
JUL 27 2011
OFFICE OF PETITIONS

In re Application of	:	
Reika Ichihara, et al.	:	
Application No. 11/841,817	:	DECISION GRANTING PETITION
Filed: August 20, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 04329.3725-03000	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, July 26, 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 30, 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 2892 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110502

DATE : May 02, 2011

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction on Patent No.: 7,800,809

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:

/Ricky L. Mack/
Supervisory Patent Examiner, Art Unit 2873

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

March 15, 2012

FotoNation/DOC
Patent Legal Dept.
3025 Orchard Parkway
San Jose CA 95134

In re Application of :
CIUC, MIHAI, **et al.** : **DECISION ON PETITION**
Application No: **11/841855** :
Filed: **08/20/2007**
Attorney Docket No: **FN-142-CON-US**

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) August 13, 2008.

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- 576-1565.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/841,855	08/20/2007	Mihai Ciuc	FN-142-CON-US	2575

72104 7590 03/30/2012
FotoNation/DOC
Patent Legal Dept.
3025 Orchard Parkway
San Jose, CA 95134

EXAMINER
LEE, JOHN W

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
03/30/2012	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):

v-gubau@doc.com
asmith@doc.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

March 29, 2012

FotoNation/DOC
Patent Legal Dept.
3025 Orchard Parkway
San Jose CA 95134

Re Application of
CIUC, MIHAI, **ET Al**
Application: **11/841855**
Filed: **08/20/2007**
Attorney Docket No: **FN-142-CON-US**

: **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) March 16,2012.
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

OK TO ENTER: /A.F./

04/19/2012

I hereby certify that this correspondence is being filed via EFS-Web with the United States Patent and Trademark Office

on 29 March 2012.

KILPATRICK TOWNSEND & STOCKTON LLP

By: Malwida Adagit

PATENT

Attorney Docket 87154-734437 (005120US)
Client Ref. No.: 20300NCUS
BX2009T04039

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Manfred REITER, *et al.*

Patent No.: 8,021,881

Issued: September 20, 2011

For: MEDIUM FOR THE PROTEIN-FREE AND SERUM-FREE CULTIVATION OF CELLS

Confirmation No.: 2638

Examiner: Allison M. Ford

Technology Center/Art Unit: 1653

REQUEST FOR CERTIFICATE OF CORRECTION UNDER §1.323

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 CFR §1.323 Applicant request issuance of a Certificate of Correction correcting minor errors inadvertently introduced into the claims.

The desired corrections are set forth on form PTO/SB/44, enclosed. Claim 1 as filed recited "≤". This term was not amended during prosecution. However, the symbol was inadvertently presented as "<" in claim 1 in the **Listing of Claims** in Applicants' February 4, 2011 submission (in which no amendments to the claims were presented), and was carried over by the USPTO in the issued claims. The correction to claim 2 also corrects a typographical error in which "the soy hydrolysate" was inadvertently omitted at line 2 of claim 2 and carried over by the USPTO.

Please charge the fee, pursuant to 37 CFR §1.20(a), of $100.00 to our credit card. Please deduct any additional fees associated with this Certificate from deposit account 20-1430.

Respectfully submitted

Jean M. Lockyer
Reg. No. 44,879

KILPATRICK TOWNSEND & STOCKTON LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel. (415) 576-0200
Fax (415) 576-0300
JML/mcd
rev. 1/04
64076858 v1

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 8,021,881

APPLICATION NO.: 11/841,915

ISSUE DATE : September 20, 2011

INVENTOR(S) : Manfred REITER, *et al.*

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In column 13, line 6 (claim 1, line 5): delete "<500 daltons" and insert therefore --≤500 daltons--;

and

in column 13, line 7 (claim 2, line 1): after "wherein" insert --the soy hydrolysate--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

KILPATRICK TOWNSEND & STOCKTON LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/5/2012

TO SPE OF : ART UNIT 1653

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/841915 Patent No.: 8021881 B2

CofC mailroom date: 3/29/2012

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

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: _____

/Sue Liu/ SPE — AU 1653

/Allison M. Ford/ Primary Examiner — AU 1653

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

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED

DEC 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Drinan et al.	:	DECISION ON PETITION
Application No. 11/841,947	:	TO WITHDRAW
Filed: August 20, 2007	:	FROM RECORD
Attorney Docket No. PHILO.004C2	:	

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, 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 Knobbe Martens Olson & Bear LLP does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The request to change the correspondence address of record is not accepted in view of Knobbe Martens Olson & Bear LLP not having power of attorney. See MPEP §§ 601.03 and 405.

All future communications from the Office will continue to be directed to the address listed above until otherwise notified by applicant.

Currently, a Notice of Appeal was filed May 19, 2010 in the above-identified application.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
SEP 10 2010
OFFICE OF PETITIONS

Scott C. Harris
Law Office of Scott C. Harris, Inc.
P.O. BOX 1389
Rancho Santa Fe, CA 92067-1389

In re Application of
Scott C. Harris
Application No. 11/842,062
Filed: August 20, 2007
Attorney Docket No. TRAFFIC-C3

DECISION DISMISSING PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed on March 19, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional applications filed in the concurrently filed Application Data Sheet (ADS).

In response to the decision mailed February 18, 2010, petitioner submits the present renewed petition along with and ADS.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 3661 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center at (571) 272-2100.

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/842,062	08/20/2007	3661	645	TRAFFIC-C3	1	1

CONFIRMATION NO. 2788

CORRECTED FILING RECEIPT

23844
SCOTT C HARRIS
Law Office of Scott C Harris, Inc
P O BOX 1389
Rancho Santa Fe, CA 92067-1389

OC000000043343988

Date Mailed: 09/03/2010

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)

Scott C. Harris, Rancho Santa Fe, CA;

Power of Attorney:
Scott Harris–32030

Domestic Priority data as claimed by applicant

This application is a CON of 11/115,843 04/26/2005 PAT 7,490,005
which is a CON of 10/455,866 06/06/2003 PAT 6,892,136
which is a CON of 09/682,200 08/03/2001 PAT 6,604,047

Foreign Applications

If Required, Foreign Filing License Granted: 08/29/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/842,062**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No
**** SMALL ENTITY ****

Title

NON REAL TIME TRAFFIC SYSTEM FOR A NAVIGATOR

Preliminary Class

701

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Scott C. Harris
Law Office of Scott C. Harris, Inc.
P.O. BOX 1389
Rancho Santa Fe, CA 92067-1389

MAILED
SEP 09 2010
OFFICE OF PETITIONS

In re Application of
Scott C. Harris
Application No. 11/842,062
Filed: August 20, 2007
Attorney Docket No. TRAFFIC-C3

DECISION DISMISSING PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed on March 19, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional applications filed in the concurrently filed Application Data Sheet (ADS).

In response to the decision mailed February 18, 2010, petitioner submits the present renewed petition along with and ADS.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/842,062	08/20/2007	3661	645	TRAFFIC-C3	1	1

CONFIRMATION NO. 2788

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23844
SCOTT C HARRIS
Law Office of Scott C Harris, Inc
P O BOX 1389
Rancho Santa Fe, CA 92067-1389

OC000000043343988

Date Mailed: 09/03/2010

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Applicant(s)

Scott C. Harris, Rancho Santa Fe, CA;

Power of Attorney:
Scott Harris--32030

Domestic Priority data as claimed by applicant

This application is a CON of 11/115,843 04/26/2005 PAT 7,490,005
which is a CON of 10/455,866 06/06/2003 PAT 6,892,136
which is a CON of 09/682,200 08/03/2001 PAT 6,604,047

Foreign Applications

If Required, Foreign Filing License Granted: 08/29/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/842,062**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No
**** SMALL ENTITY ****

Title

NON REAL TIME TRAFFIC SYSTEM FOR A NAVIGATOR

Preliminary Class

701

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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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.

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For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

Issue Classification

Application/Control No.	Applicant(s)/Patent Under Reexamination
11842188	WOCHNER ET AL.
Examiner	**Art Unit**
Virginia Manoharan	1771

ORIGINAL

CLASS	SUBCLASS
203	13

CROSS REFERENCE(S)

CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)				
159	DIG. 19				
203	15	71			
423	341	394.2	483	488	DIG.1

INTERNATIONAL CLASSIFICATION

CLAIMED					NON-CLAIMED				
B	0	1	D	3 / 00 (2006.01.01)					
C	0	~~B~~ 1	B	33 / 037 ()					

☐ 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	Final	Original
1	1	17	17												
2	2	18	18												
7	3	19	19												
3	4	20	20												
11	5														
4	6														
8	7														
14	8														
5	9														
9	10														
12	11														
16	12														
6	13														
10	14														
13	15														
15	16														

NONE (Assistant Examiner)	(Date)	**Total Claims Allowed:** 20	
/Virginia Manoharan/ Primary Examiner.Art Unit 1771 (Primary Examiner)	12/09/10 (Date)	O.G. Print Claim(s) 1, 17	O.G. Print Figure 1

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOTOROLA INC
600 NORTH US HIGHWAY 45
W4 - 39Q
LIBERTYVILLE IL 60048-5343

MAILED
NOV 09 2010
OFFICE OF PETITIONS

In re Application of

Russell, et al.

Application No. 11/842,275

Filed: August 21, 2007

Attorney Docket No. CS31067RL

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed September 13, 2010.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on January 6, 2010, after it was believed that a proper response was not received to the non-final Office action mailed October 5, 2009, which set a shortened statutory period for reply of three months from its mailing date. A Notice of Abandonment was mailed June 16, 2010.

Petitioner maintains that a response was filed electronically on November 17, 2009. As evidence of the same, petitioner provides a copy of the response and a copy of the Electronic Filing Acknowledgement receipt whereby the USPTO acknowledged receiving the response on November 17, 2009.

Petitioner's argument has been considered and is persuasive. A review of the application file history did not reveal the November 17, 2009, filing. It is noted that petitioner's electronic Acknowledgement Receipt indicates that petitioner filed the November 17, 2009, response in application serial number 11/842,275. The Electronic Acknowledgement Receipt is akin to an Office date-stamped postcard which serves as *prima facie* evidence of receipt of the document in question by the USPTO. Based on the aforementioned, the holding of abandonment was improperly imposed as a proper response to the non-final Office action was received prior to the expiration of the period set for reply.

The application file is being forwarded to Technology Center GAU 2461 for further processing which will include withdrawal of the abandonment status of the application and consideration of the response filed November 17, 2009, a copy of which was filed September 13, 2010.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MOTOROLA MOBILITY, INC.
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE, IL 60048-5343

MAILED
NOV 17 2011
OFFICE OF PETITIONS

In re Application of :
RUSSELL, et al :
Application No. 11/842,275 : ON PETITION
Filed: August 21, 2007 :
Attorney Docket No. CS31067RL :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 26, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 24, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 25, 2011. Accordingly, a Notice of Abandonment was mailed on September 23, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $930, and the submission required by 37 CFR 1.114; (2) the petition fee of $1860; 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 2461 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

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INTEL CORPORATION
C/O CPA GLOBAL
P.O. BOX 52050
MINNEAPOLIS MN 55402

MAILED
OCT 25 2010
OFFICE OF PETITIONS

In re Application of	:	
Telesphor KAMGAING	:	
Application No. 11/842,298	:	DECISION ON PETITION
Filed: August 21, 2007	:	
Attorney Docket No. P26007	:	

This is a decision on the 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 timely pay the issue and publication fees on or before August 30, 2010. As required by the Notice of Allowance and Fee(s) Due, mailed May 28, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 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 payment of the Issue Fee of $1510 and Publication Fee of $300; (2) the petition fee of $1620; and (3) and the required statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent. .

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : July 1,2011

In re Application of :

Daisuke NITTA

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11842324

Filed : 21-Aug-2007

Attorney Docket No : 06-52029

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed July 1,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2472 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	11842324
Filing Date	21-Aug-2007
First Named Inventor	Daisuke NITTA
Art Unit	2472
Examiner Name	RAJ JAIN
Attorney Docket Number	06-52029
Title	EFFICIENT UTILIZATION OF CACHE SERVERS IN MOBILE COMMUNICATION SYSTEM

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

○ One or more claims are unpatentable ◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees) ○ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).	
RCE request,submission, and fee. ☒ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on 2011.06.30 ☐ 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	/Raphael A. Valencia/
Name	Raphael A. Valencia
Registration Number	43216

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GUNN, LEE & CAVE, P.C.
300 CONVENT ST.
SUITE 1080
SAN ANTONIO, TX 78205

MAILED

SEP 14 2010

OFFICE OF PETITIONS

In re Application of BAMDAD HASSANPOURGOL Application No. 11/842,329 Filed: August 21, 2007 Attorney Docket No. **P-9012**	: : : : :	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed August 6, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond , pursuant to 37 CFR 10.40.

The request was signed by Michael D. Paul on behalf of all attorneys of record who are associated with Customer Number 30553.

All attorneys/agents associated with Customer Number 30553 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 Bamdad Hassanpurgol at the address list listed in the request.

There is an outstanding Office action mailed June 23, 2010, that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: BAMDAD HASSANPOURGOL
7817 N. 5TH
McALLEN TX 78504

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/842,329	08/21/2007	Bamdad Hassanpourgol	P-9012

CONFIRMATION NO. 3189

POWER OF ATTORNEY NOTICE

30553
GUNN, LEE & CAVE, P.C.
300 CONVENT ST.
SUITE 1080
SAN ANTONIO, TX 78205

OC000000043474437

Date Mailed: 09/13/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/06/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/jlburke/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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Decision Date : December 15, 2011

In re Application of :

Hong You

Application No : 11842359

Filed : 21-Aug-2007

Attorney Docket No : CHU-07US041

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed December 15, 2011

The request is **APPROVED.**

The request was signed by Laurence A. Greenberg (registration no. 29308) on behalf of all attorneys/agents associated with Customer Number 24131 . All attorneys/agents associated with Cusotmer Number 24131 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	Hong Sik You
Name2	
Address 1	103-603, Hyundai Hometown, 1, Neunggok
Address 2	364, Todang-Dong, Deogyang-Gu, Goyang-Si
City	Gyeonggi-Do
State	
Postal Code	412-818
Country	KR

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	11842359
Filing Date	21-Aug-2007
First Named Inventor	Hong You
Art Unit	2442
Examiner Name	BENJAMIN AILES
Attorney Docket Number	CHU-07US041
Title	Video Data Transmitting Apparatus Using a Metallic Body

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 24131

The reason(s) for this request are those described in 37 CFR:

10.40(c)(1)(iv)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Hong Sik You
Address	103-603, Hyundai Hometown, 1, Neunggok 364, Todang-Dong, Deogyang-Gu, Goyang-Si
City	Gyeonggi-Do
State	
Postal Code	412-818
Country	KR

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Laurence A. Greenberg/
Name	Laurence A. Greenberg
Registration Number	29308

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Alexandria, VA 22313-1450
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PATENT LAW OFFICE OF D.R. HASZKO
C/O DENNIS R. HASZKO
499 MOSHER HILL ROAD
FARMINGTON ME 04938

MAILED

OCT 28 2011

OFFICE OF PETITIONS

In re Application of :
Joao Robinson Rozado :
Application No. 11/842,389 : ON PETITION
Filed: August 21, 2007 :
Attorney Docket No. 50914.1 .P01 US01 :

This is a decision regarding your request under 37 CFR 1.28. for acceptance of a fee deficiency submission filed October 17, 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.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 $715, under 37 CFR 1.28, is hereby accepted and the petition is **GRANTED**.

The matter is being referred to Technology Center 2434.

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

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SUZANNAH K. SUNDBY
SMITH, GAMBRELL & RUSSEL, LLP
1130 Connecticut Avenue, NW
Suite 1130
WASHINGTON DC 20036

MAILED

JUN 06 2011

OFFICE OF PETITIONS

In re Application of	:	
Wayne Jeffrey Perry	:	
Application No. 11/842,458	:	DECISION ON PETITION
Filed: August 12, 2007	:	TO WITHDRAW
Attorney Docket No. 700172.005 SiCap105	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 16, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because a proper forwarding address was not provided. The request to change the correspondence address should be that of the: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has intervened in this application then a Statement under 37 CFR 3.73(b), or a copy of the actual assignment must be submitted with a renewed request.

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/842,499	08/21/2007	Bryan Alexander WILSON	620-56US	3495

23716 7590 03/25/2011
ANTHONY ASQUITH
28-461 COLUMBIA STREET WEST
WATERLOO, ON N2T 2P5
CANADA

EXAMINER
MAESTRI, PATRICK J

ART UNIT	PAPER NUMBER
3633	

MAIL DATE	DELIVERY MODE
03/25/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Anthony Asquith
28-461 Columbia Street West
Waterloo, ON N2T 2P5
Canada

Appl No.: 11/842,499
WILSON, BRYAN ALEXANDER
Filed: August 21, 2007
For: WOOD TRIM SYSTEM

DECISION ON PETITION UNDER *37 CFR 1.181*

This is a decision on the petition filed February 24, 2011 to request that the final rejection mailed on November 24, 2010 be vacated due to an omission in said final rejection relating to the response to arguments of claim 8.

A review of the record shows that a final office action was issued on November 24, 2010. In this office action the examiner addressed the applicant's remarks pertaining to claim 8. However, the applicant argues that the examiner did not fully explain their position because of an alleged omission in said response.

However, since the filing of the petition, the examiner corrected the alleged omission by issuing a supplemental final rejection.

Therefore, since the alleged omission has been clearly addressed and further explained in the substitute final rejection mailed on March 23, 2011, the alleged omission no longer exists and the argument is considered moot.

The petition is **DISMISSED** as being moot.

Kathy Matecki

Kathy Matecki, Director
Technology Center 3600
Telephone No. 571-272-5250

SM/BG 3/25/11
SM

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/842,499	08/21/2007	Bryan Alexander WILSON	620-56US	3495

23716 7590 04/11/2011
ANTHONY ASQUITH
28-461 COLUMBIA STREET WEST
WATERLOO, ON N2T 2P5
CANADA

EXAMINER
MAESTRI, PATRICK J

ART UNIT	PAPER NUMBER
3633	

MAIL DATE	DELIVERY MODE
04/11/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 1 1 2011

Anthony Asquith
28-461 Columbia Street West
Waterloo, ON N2T 2P5
Canada

In re Application of
WILSON, BRYAN ALEXANDER
Application No. 11/842,499
Filed: August 21, 2007
For: WOOD TRIM SYSTEM

: DECISION ON PETITION
: UNDER 37 CFR 1.181

This is a decision on the petition filed February 24, 2011 to request that the final status from office action mailed on November 24, 2011 be removed in light of the new objection to claim 8.

A review of the record shows that a final office action was issued on November 24, 2011. In this office action the examiner indicated a new objection to claim 8 that was not addressed in the non-final office action that was mailed on May 10, 2010. The applicant contends that this new objection is actually a new rejection under the heading of an objection and would constitute a new ground of rejection.

However, since the filing of the petition, the examiner has issued a new substitute final rejection that was mailed on March 23, 2011. In said substitute final rejection the examiner did not include any new objections pertaining to claim 8.

Therefore, since the questionable objection is no longer in the office action, the applicant's argument is moot.

The petition is **DISMISSED** as being moot.

Any questions or comments with respect to this decision should be forwarded to SPE Brian Glessner at (571) 272-6754.

Katherine Matecki

Kathy Matecki, Director
Patent Technology Center 3600
(571) 272-5250

SM/BG: 3/25/11

SM

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/842,499	08/21/2007	Bryan Alexander WILSON	620-56US	3495

23716 7590 06/13/2011
ANTHONY ASQUITH
28-461 COLUMBIA STREET WEST
WATERLOO, ON N2T 2P5
CANADA

EXAMINER
MAESTRI, PATRICK J

ART UNIT	PAPER NUMBER
3633	

MAIL DATE	DELIVERY MODE
06/13/2011	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
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Alexandria, VA 22313-1450
www.uspto.gov

JUN 13 2011

Anthony Asquith
28-461 Columbia Street West
Waterloo, ON N2T 2P5
Canada

In re Application of
WILSON, BRYAN ALEXANDER
Application No. 11/842,499
Filed: August 21, 2007
For: WOOD TRIM SYSTEM

: DECISION ON PETITION
: UNDER 37 CFR 1.181

This is a decision on the petition filed February 24, 2011 to request that the Requirement for Election of Species be withdrawn and all claims be examined.

A review of the record shows that a requirement for restriction/election was mailed on February 19, 2010 that required applicant to elect between Group I (claims 1-7, 10, 23 and 33) and Group II (claims 8, 9, and 11-31). The restriction/election further required the applicant to elect a single species from species A through H. The examiner also indicated that claim 1 was generic to species A-G. In response to the restriction/election on April 12, 2010 the applicant elected Group I with traverse, further elected Species C, and stated that claims 1-7 and 10 read on the elected invention/species. In response to the restriction/election, the examiner then issued a non-final rejection on May 10, 2010 indicating that the applicant's traverse was persuasive and withdrew the restriction requirement between groups I and II, i.e. between the method and the apparatus. The examiner also indicated that, upon closer review, claim 1 was not generic to species A-G and claim 1 did not read on the elected species C. Thus, the examiner maintained the species election and stated that claims 1-7 and 11-33 were all withdrawn as being drawn to a non-elected invention. The examiner also clearly indicated that claim 1 was not generic because it required the split-guide to restrain the jamb in 4 directions. However, the elected species only restrains the jamb in two directions, left and right. In response to the non-final rejection, the applicant filed a response on September 10, 2010. In this response, the applicant argued that the examiner could not apply the election of species to refuse to examine claims that are in a distinct and independent relationship, i.e. independent claims. After reviewing the applicant's response, the examiner then issued a final office action on November 24, 2010. In this office action the examiner maintained the election of species and did not examine claims 1-7 and 11-33 because they were drawn to a non-elected species. Finally, in response to the final office action, the applicant filed a request for reconsideration on February 23, 2011 and the present petition on February 24, 2011.

In response to the applicant's petition that the examiner made inappropriate and unlawful use of the Election of Species provisions, as contained in Rule 1.146, to excuse themselves from examining certain claims of the patent application, it is respectfully disagreed with because Rules 1.142 and 1.146 are independent of each other and Rule 1.146 can be used separately for independent and dependent claims. Rule 1.146 reads as follows:

§ 1.146 Election of species
In the first action on an application containing a generic claim to a generic invention (genus) and claims to more than one patentably distinct species embraced thereby, the examiner may require the applicant in the reply to that action to elect a species of his or her invention to which his or her claim will be restricted if no claim to the genus is found to be allowable. However, if such application contains claims directed to more than a reasonable number of species, the examiner may require restriction of the claims to not more than a reasonable number of species before taking further action in the application.

Thus, it can clearly be seen that nowhere in the above rule does it mention anything about Rule 1.142, or that the above rule is only limited to dependent claims. Again, Rule 1.142 stands on its own and can be used to require the division between claims drawn to different species of invention, whether those claims are independent or dependent. Therefore, since applicant's claims 1-7 and 11-33 are not drawn to the elected Species C as the examiner clearly pointed out, these claims were properly withdrawn from consideration. Also, one does not have to restrict the claims under Rule 1.142 before an Election of Species can be made under 1.146. Rule 1.142 reads as follows:

§ 1.142 Requirement for restriction
(a) If two or more independent and distinct inventions are claimed in a single application, the examiner in an Office action will require the applicant in the reply to that action to elect an invention to which the claims will be restricted, this official action being called a requirement for restriction (also known as a requirement for division). Such requirement will normally be made before any action on the merits; however, it may be made at any time before final action.
(b) 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, it can clearly be seen from the above rule that Rule 1.142 only relates to inventions which are independent and distinct. Thus, having different species is not the same as having different inventions. One species of trim is not a different distinct invention from another species of trim. Hence, one could not use 1.142 to restrict between the two distinct species. One would only be able to restrict between the two distinct species by using Rule 1.146, which the examiner has properly done in this case. Again, as stated above, Rules 1.142 and 1.146 are separate from each other and stand on their own. They address two completely different types of situations, i.e. distinct inventions and distinct species.

The applicants further argue that the examiner erred by not presenting the applicants with the proper choices under Rule 1.146. The applicants argue that if they knew claim 1 was not generic to the elected species they would have traversed the Election of Species under Rule 1.146.

In response to this argument, although the examiner changed his position with respect to whether claim 1 was generic to the elected species or not, the applicant has the same ability as the examiner to determine which claims are generic and which claims are not. As clearly pointed out by the examiner in the non-final office action, claim 1 is not generic because of the limitations set forth above. The applicant is also capable of reading the claims and determining what embodiments read on what claims. Therefore, if the applicant wanted to elect the embodiment that read on claim 1, the applicant had every opportunity to do so. Instead, the applicant elected the embodiment of Species C even though it is clear, as pointed out by the examiner, that this species does not read on claim 1. The examiner merely points out which claims in an application appear to be generic. It is the applicant's responsibility to determine that the claims they want examined read on the embodiment they elect.

In conclusion, it has been found that the examiner has not erred in the use of the Election of Species provisions of Rule 1.146. Therefore, the Election of Species will not be withdrawn and claims 1-7 and 11-33 will not be rejoined.

The petition is **DENIED**.

Any questions or comments with respect to this decision should be forwarded to Supervisory Patent Examiner Brian Glessner at (571) 272-6754.

Kathy Matecki

Kathy Matecki, Director
Patent Technology Center 3600
(571) 272-5250

SM/BG: 6/1/11
SM

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **1-28-11**

TO SPE OF : ART UNIT **2817**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11842586** Patent No.: **7525391**

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: _____

_____

_____

_____

_____

SPE — 2817 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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Decision Date : February 13, 2012

In re Application of :

John Sledge

Application No : 11842617

Filed : 21-Aug-2007

Attorney Docket No : 33939/11

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

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	11842617
Filing Date	21-Aug-2007
First Named Inventor	John Sledge
Art Unit	3733
Examiner Name	LYNNSY SCHNEIDER
Attorney Docket Number	33939/11
Title	ANTERIOR CERVICAL SPINE INSTRUMENTATION AND RELATED 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

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OFFICE OF PETITIONS

Kilpatrick Townsend & Stockton LLP
Adobe Systems, Inc. 58083
1100 Peachtree Street
Suite 2800
Atlanta GA 30309-4530

In re Patent No. 8,005,216	: DECISION ON PATENT TERM
Issued: August 23, 2011	: ADJUSTMENT and NOTICE OF INTENT
Application No. 11/842,709	: TO ISSUE CERTIFICATE OF
Filed: August 21, 2007	: CORRECTION
Dkt. No.: 58083/394777 (B498)	:

This is a decision on the petition filed on September 22, 2011 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 1036 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 1036 days is **GRANTED**.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 1036 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Adviser
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,005,216

DATED : August 23, 2011 **DRAFT**

INVENTOR(S) : Agrawal

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 1035 days

Delete the phrase "by 1035 days" and insert – by 1036 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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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED
AUG 02 2010
OFFICE OF PETITIONS

In re Application	:	
Li Liu et al.	:	
Application 11/842,712	:	DECISION ON PETITION
Filed: August 21, 2007	:	
Attorney Docket No. 070650	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 22, 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 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. A Notice of Abandonment was mailed on April 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 an election and amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly the election and amendment is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2817 for appropriate action by the Examiner in the normal course of business on the reply received June 22, 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

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Christian OESTLIEN et al.	:	ON PETITION
Application No. 11/842,732	:	
Filed: August 21, 2007	:	
Atty. Docket No.: 16113-0431001		

This is in response to the petition under 37 CFR 1.137(b), filed August 3, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not timely filed following the filing of the Notice of Appeal on December 1, 2010, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). A two (2)-month extension of time was obtained. As no claim was allowed, the application became abandoned April 2, 2011. *See* MPEP 1215.04.

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), RCE fee, and a submission required under 37 CFR 1.114, (2) a petition fee of $1620, and (3) a statement of unintentional delay. The reply to the Notice is accepted as having been intentionally 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 is 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 $1860 extension of time fee submitted on August

3, 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 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 2167 for further action on the filed Response.

Ramesh Krishnamurthy

for Anthony Knight
Director
Office of Petitions

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DEC 06 2011
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FISH & RICHARDSON P.C. (TC)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 8,001,571	:
Issued: August 16, 2011	: DECISION ON PATENT TERM
Application No. 11/842,766	:
Filed: August 21, 2007	:
Atty. Dkt. No.: 16113-0089001	:

This is a decision on the application for patent term adjustment filed October 14, 2011 requesting that the patent term adjustment be increased from 611 days to 731 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. 8,001,571 on August 16, 2011. The patent issued with a patent term adjustment of 611 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentee contests the period of adjustment of 178 days accorded pursuant to 37 CFR 1.702(b).

With respect to patentee's argument that the period of adjustment pursuant to 37 CFR 1.702(b) totals 298 days, patentee's arguments have been carefully considered, but are not persuasive. The period of adjustment pursuant to 37 CFR 1.702(b) was properly calculated at 178 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.

Herein, a request for continued examination was filed February 16, 2011. Thus, excluding the period of time consumed by continued examination, the period of adjustment pursuant to 37 CFR 1.703(b) is 178 days.

In view thereof, at the time of issuance, the patent was entitled to an overall patent term adjustment of 611 days (698 days pursuant to 37 CFR 1.702(a) and 1.702(b) – 87 days of applicant delay).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Receipt is acknowledged of the required $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

AUG 30 2011

OFFICE OF PETITIONS

In re Application of :
Peter Phaal, et al. :
Application No. 11/842,850 : ON PETITION
Filed: August 21, 2007 :
Attorney Docket No. 91785-757767(001500US) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 8, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 9, 2011. The Notice of Abandonment was mailed August 17, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 2469 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/22/11

TO SPE OF : ART UNIT 2884

SUBJECT : Request for Certificate of Correction for Appl. No.: 11842880 Patent No.: 7928394 B1

CofC mailroom date: 06/15/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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.

XApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

/David P. Porta/ **2884**

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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PEIGEN JIANG
19480 SE 28TH PLACE
SAMMAMISH WA 98075

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Peigen Jiang	:	
Application No. 11/842,952	:	ON PETITION
Filed: August 22, 2007	:	
Attorney Docket No. st07-01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 4, 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 two (2) month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 5, 2010. The Notice of Abandonment was mailed September 24, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $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 3721 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110519

DATE : May 11, 2011

TO SPE OF : ART UNIT 2882

SUBJECT : Request for Certificate of Correction on Patent No.: 7,724,865

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:

/Edward J Glick/
Supervisory Patent Examiner, Art Unit 2882

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.
11/843,079	08/22/2007	William H. Eby	1421-310	4445

32905 7590 11/01/2011
JONDLE & ASSOCIATES, P.C.
858 HAPPY CANYON ROAD, SUITE 230
CASTLE ROCK, CO 80108

EXAMINER
KUBELIK, ANNE R

ART UNIT	PAPER NUMBER
1638	

NOTIFICATION DATE	DELIVERY MODE
11/01/2011	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):

JondleOA@jondlelaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NOV 0 1 2011

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of:	:
William H. Eby	:
Serial No.: 11/843,079	: PETITION DECISION
Filed: August 22, 2007	:
Attorney Docket No.: **1421-310**	

This is in response to the petition under 37 CFR § 1.59(b), filed October 26, 2009, to expunge information from the above identified application. This application has not been allowed. The delay in acting upon this petition is regretted.

Petitioner requests that the Reply to Request for Information under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on October 26, 2009, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Decision Date : February 16, 2012

In re Application of :

William Eby

Application No : 11843079

Filed : 22-Aug-2007

Attorney Docket No : 1421-310

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 16, 2012

The request is **APPROVED**

The request was signed by Robert J. Jondle (registration no. 33915) on behalf of all attorneys/agents associated with Customer Number 32905 . All attorneys/agents associated with Customer Number 32905 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 26263 .

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	11843079
Filing Date	22-Aug-2007
First Named Inventor	William Eby
Art Unit	1638
Examiner Name	ANNE KUBELIK
Attorney Docket Number	1421-310
Title	Soybean Cultivar S060292

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 32905

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to:
The address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number: 26263

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Robert J. Jondle/
Name	Robert J. Jondle
Registration Number	33915

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/843,091	08/22/2007	William H. Eby	1421-311	4457

32905 7590 11/18/2010
JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK, CO 80108

EXAMINER
KUBELIK, ANNE R

ART UNIT	PAPER NUMBER
1638	

NOTIFICATION DATE	DELIVERY MODE
11/18/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JondleOA@jondlelaw.com

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NOV 18 2010

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of:	:
William H. Eby	: PETITION DECISION
Serial No.: 11/843,091	:
Filed: August 22, 2007	:
Attorney Docket No.: **1421-311**	

This is in response to the renewed petition under 37 CFR § 1.59(b), filed November 12, 2010, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the material submitted to the Patent Office on January 29, 2009 and October 7, 2009 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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Alexandria, VA 22313-1450
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CHRISTOPHER P. MAIORANA, P.C.
24840 HARPER SUITE 100
ST. CLAIR SHORES MI 48080

MAILED
DEC 05 2011
OFFICE OF PETITIONS

In re Application of	:	
Henry Bessinger	:	
Application No. 11/843,180	:	DECISION ON PETITION
Filed: August 22, 2007	:	
Attorney Docket No. 9030.00001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed February 2, 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 3, 2011. A Notice of Abandonment was mailed October 5, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal, with the required fee of $310, (2) the petition fee of $930, and (3) a proper statement of unintentional delay. Accordingly the Notice of Appeal is accepted as being unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Board of Patent Appeals and Interferences for appropriate action in the normal course of business for processing of the reply received July 26, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02/06/12

TO SPE OF : ART UNIT: 2881 Attn: KIM ROBERT H (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/843199 Patent No.: 7771943

CofC mailroom date: 01/24/2012

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: Please check Claim 10
For the requested correction on PTO/SB/44 Form
Should this amended claim be amended again or not

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1814 & 703-756-1593

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

2881
Art Unit

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/843,220	08/22/2007	Hidehiro YAMAMOTO	313459US26CONT	4690

22850 7590 09/21/2010
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
BURCH, MELODY M

ART UNIT	PAPER NUMBER
3657	

NOTIFICATION DATE	DELIVERY MODE
09/21/2010	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):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SEP 20 2010

OBLON, SPIVAK, McCLELLAND MAIER
& NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

In re Application of Hidehiro Yamamoto Application No. 11/843,220 Filed: August 22, 2007 For: ELECTRIC PARKING BRAKE APPARATUS	: : : : : :	DECISION ON PETITION UNDER 37 CFR §1.181

This is a decision on applicant's petition under 37 CFR 1.181 filed September 16, 2010.

The petition is **DISMISSED**.

Petitioner requests that the examiner be required to consider the references cited in the Information Disclosure Statement (IDS) filed on August 22, 2007, in particular reference AA which was not considered by the examiner.

A review of the prosecution history shows that an IDS was filed August 22, 2007. The examiner considered all references cited on the PTO 1449, except for the U.S. publication (reference AA), as evidenced by the Examiner's line-through notation. A copy of the annotated PTO 1449 was included in the Office action mailed May 2, 2008. In a response filed July 28, 2008, applicant requested reconsideration of the refusal to consider the IDS. In response, the examiner indicated that the IDS itself was not refused consideration, merely reference AA of the PTO 1449.

Petitioner argues that "reference AA on the PTO 1449 is listed as a U.S. publication and the leading zero after the backslash in the publication number is omitted. It is submitted that such an omission is common and does not prevent one from identifying the publication listed." Petitioner also asserts that with regards to the incorrect inventor's name, "the listed name is inadvertently the first name of the inventor instead of the last name of the inventor and is clearly evident by the cover sheet of the U.S. publication. Thus correction of such would be easily determined and made by the Examiner."

Petitioner's arguments are not persuasive. With regards to the publication number, U.S. publications are identified by the year of publication followed by 7 digits. The publication listed on the PTO 1449 is identified by only 6 digits after the year. It can not be assumed by the examiner that a leading zero was omitted by the applicant. It could

easily have been a leading "1" which was omitted. Furthermore, since the USPTO no longer requires the submission of copies of U.S. publications or U.S. patents cited in an IDS, a copy of the publication was not available in the electronic file for the examiner's perusal. Therefore, the examiner could not have known that the listed name was the first name of the inventor instead of the last name. Since both the publication number and the inventor's name are incorrectly listed on the PTO 1449, the examiner was not able to retrieve the proper reference from the U.S. publication database by either the publication number or the inventor's name. Thus, the examiner could not have "easily determined and made" any corrections on the 1449. Accordingly, it was proper for the examiner to not consider the U.S. publication and thus to line-through reference AA on the PTO Form 1449.

It is noted that petitioner is seeking relief from an action that was mailed more than two (2) years ago. 37 CFR 1.181(f) indicates that "[a]ny petition under this part not filed within two months from the mailing date of the action or notice from which relief is requested **may be dismissed as untimely**, except as otherwise provided."

Summary: Petition is DISMISSED.

Questions concerning this decision should be referred to Teri Luu, Quality Assurance Specialist, at (571) 272-7045.

David Talbott, Director
Patent Technology Center 3600
(571) 272-5150

DT/tl: 09/17/10

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111109

DATE : November 09, 2011

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction on Patent No.: 7,956,907

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:

/LIN YE/
Supervisory Patent Examiner.Art Unit 2622

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

AUG 26 2010

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,756,499 :
Issue Date: July 13, 2010 :
Application No. 11/843,322 :
Filed: August 22, 2007 :
Attorney Docket No. 078134-0153 :

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 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 2/2/2011

TO SPE OF : ART UNIT 1772

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/843458 Patent No.: 7854902 B2

CofC mailroom date: 1/28/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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: Approved – Tim Kingan AU 1772

SPE

1773
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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FEB 28 2012
OFFICE OF PETITIONS

r.r (princeton)
56 MALDENHEAD ROAD
PRINCETON NJ 08540

In re Application of	:	
Suckewer et al.	:	
Application No. 11/843,498	:	DECISION ON PETITION
Filed: August 22, 2007	:	PURSUANT TO
Attorney Docket No. Flapless	:	37 C.F.R. § 1.181(A)
CR-US	:	
Title: METHOD AND DEVICE FOR	:	
CORNEA RESHAPING BY	:	
INTRASTROMAL TISSUE REMOVAL	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on February 1, 2012.

BACKGROUND

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed June 21, 2011, which set a shortened statutory period to reply of one month. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 22, 2011. A Notice of abandonment was mailed on January 26, 2012.

ANALYSIS

With this petition, Petitioner has alleged that a response to the restriction requirement was filed on August 19, 2011.

The electronic file has been reviewed, and a copy of a response to the restriction requirement has been located in the same. The submission was received on August 19, 2011. Moreover, Office records reflect the receipt of the fee that is associated with the filing of a request for a three-month extension of time on August 19, 2011.

It appears the election of species was not recognized by the Office as an election of species, due to the fact that it was submitted via EFS-Web and Petitioner coded the submission as a "C105," which is a response to a Rule 105 Communication. The undersigned has corrected the identifying information in the electronic file. Petitioner is reminded that errors such as occurred can result in loss of rights and care must be taken to avoid such.

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 a response was timely submitted.

Accordingly, the petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

CONCLUSION

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 election of species that was received on August 19, 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 withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[1] All other inquiries

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

MAILED
FEB 28 2011
OFFICE OF PETITIONS

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

In re Application of	:	
Ernsting	:	
Application No. 11/843,546	:	DECISION ON APPLICATION
Filed: August 22, 2007	:	FOR
Attorney Docket No. 17346-0044	:	PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR PATENT TERM ADJUSTMENT RECONSIDERATION," filed September 7, 2010. The petition will be treated under 37 CFR § 1.705(b). Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred eighty (180) days to three hundred seventy-eight (378) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is three hundred seventy-eight (378) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 30, 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 180 days. On September 7, 2010, applicant timely submitted an application for patent term adjustment (with authorization to charge the required fee)[1]. Applicant disputes the period of reduction of 198 days entered for applicant delay in responding to the Notice to File Missing Parts of Nonprovisional Application mailed September 4, 2007.

[1] PALM records indicate that the Issue Fee payment was also received on September 7, 2010.

A review of the application history reveals that the September 4, 2007 Notice to File Missing Parts of Nonprovisional Application was withdrawn on March 5, 2008. This is fortunate for applicant, as the September 4, 2007 Notice was properly addressed to the customer number specified in the ADS filed on August 22, 2007 - Customer no. 20952. When an application is submitted with more than one correspondence address listed, the Office will select which of the multiple correspondence addresses to use according to 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. MPEP 403.

A Notice to File Corrected Application Papers was mailed on March 5, 2008 to an incorrect address, as a correspondence address was provided in a declaration filed on January 24, 2008, but was not entered by the Office. The March 5, 2008 Notice was returned to sender. A second Withdrawal of Previously Sent Notice was mailed on April 28, 2008. (It is assumed that the September 4, 2007 date listed in the April 28, 2008 Notice is a typographical error and that the March 5, 2008 Notice should have been referenced.)

On April 28, 2008, the Office mailed a Notice to File Corrected Application Papers to the specified correspondence address. On June 19, 2008, applicant filed a response.

The Notices of September 4, 2007 and March 5, 2008 were not received by applicant and were withdrawn by the Office. The filing of a response June 19, 2008 to the Notice mailed April 28, 2008 is within the three-month period set forth in 37 CFR 1.704(b). In view thereof, it is concluded that applicant did not fail to engage in reasonable efforts to conclude processing or examination of the application by delaying in replying to the Notice to File Corrected Application Papers, mailed April 28, 2008. The period of reduction of 198 days for applicant delay is being removed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is three hundred seventy-eight (378) days (430 - 52).

The $200.00 fee set forth in 37 CFR 1.18(e) is being charged to petitioner's Deposit Account, as authorized. No additional fees are required.

The application is being forwarded to the Office of Data Management so that a patent can be issued. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

Patent eBusiness

- Electronic Filing
- Patent Application Information (PAIR)
- Patent Ownership
- Fees
- Supplemental Resources & Support

Patent Information

Patent Guidance and General Info
- Codes, Rules & Manuals
- Employee & Office Directories
- Resources & Public Notices

Patent Searches

Patent Official Gazette
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- Search Biological Sequences
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Reports

Patent Application Information Retrieval

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11/843,546

ARRANGEMENT FOR AN OPTICAL SYSTEM FOR POLARIZATION-DEPENDENT, TIME-RESOLVED OPTICAL SPECTROSCOPY, OPTICAL MEASUREMENT SYSTEMS AND METHOD FOR THE POLARIZATION-DEPENDENT SPECTROSCOPIC ANALYSIS OF MEASUREMENT LIGHT

Select New Case | Application Data | Transaction History | Image File Wrapper | Patent Term Adjustments | Foreign Priority | Published Documents | Address & Attorney/Agent | Supplemental Content

Patent Term Adjustment

Filing or 371(c) Date:	08-22-2007	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	430
A Delays:	430	PTO Manual Adjustments:	198
B Delays:	0	Applicant Delays:	250
C Delays:	0	Total PTA Adjustments:	378

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
66	02-28-2011	Adjustment of PTA Calculation by PTO	198		0
48	07-30-2010	Mail Notice of Allowance	29		38
47	07-01-2010	Notice of Allowance Data Verification Completed			0
46	07-01-2010	Document Verification			0
45	06-07-2010	Mail Examiner's Amendment			0
44	06-01-2010	Examiner's Amendment Communication			0
43	06-01-2010	Allowability Notice			0
42	04-20-2010	Information Disclosure Statement considered			0
41	04-20-2010	Information Disclosure Statement (IDS) Filed		50	38
40	04-20-2010	Information Disclosure Statement (IDS) Filed			0
39	03-30-2010	Date Forwarded to Examiner			0
38	03-01-2010	Response after Non-Final Action		2	37
37	11-27-2009	Mail Non-Final Rejection	401		-1
36	11-09-2009	Non-Final Rejection			0
35	10-10-2008	Information Disclosure Statement considered			0
31	10-06-2009	Case Docketed to Examiner in GAU			0
29	04-08-2009	Case Docketed to Examiner in GAU			0
28	10-10-2008	IDS with 1 mo. certification statement			0
27	10-10-2008	Information Disclosure Statement (IDS) Filed			0
26	10-02-2008	PG-Pub Issue Notification			0
25	09-04-2008	Case Docketed to Examiner in GAU			0
24	08-25-2008	IFW TSS Processing by Tech Center Complete			0

23	07-03-2008	Application Dispatched from OIPE		0
22	06-25-2008	Sent to Classification Contractor		0
21	06-25-2008	Filing Receipt - Updated		0
20	06-25-2008	Application Is Now Complete		0
19	06-19-2008	Additional Application Filing Fees	198	6
18	06-19-2008	Applicant has submitted new drawings to correct Corrected Papers problems		0
17	06-19-2008	Applicant has submitted a new specification to correct Corrected Papers problems		0
16	04-28-2008	Corrected Paper		0
15	04-24-2008	Filing Receipt		0
14	04-24-2008	Correspondence Address Change		0
11	08-22-2007	Drawing Preliminary Amendment		0
10	08-22-2007	A document that contains, at least in part, a written description of an invention, and of the manne		0
9	09-04-2007	Pre-Exam Office Action Withdrawn		0
8	01-24-2008	Additional Application Filing Fees		0
7	01-24-2008	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic		0
6	09-04-2007	Notice Mailed--Application Incomplete--Filing Date Assigned		0
3	08-23-2007	Cleared by OIPE CSR		0
2	08-22-2007	IFW Scan & PACR Auto Security Review		0
1	08-22-2007	Initial Exam Team nn		0

If you need help:

- *Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail EBC@uspto.gov for specific questions about Patent Application Information Retrieval (PAIR).*
- *Send general questions about USPTO programs to the USPTO Contact Center (UCC).*
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You can suggest USPTO webpages or material you would like featured on this section by E-mail to the webmaster@uspto.gov. While we cannot promise to accommodate all requests, your suggestions will be considered and may lead to other improvements on the website.

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210 SW MORRISON STREET, SUITE 400
PORTLAND, OR 97204

MAILED
MAR 16 2011
OFFICE OF PETITIONS

In re Application of	:	
Patrick R. FELSTED, et *al.*	:	
Application No. 11/843,572	:	DECISION GRANTING PETITION
Filed: August 22, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 6647-086	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 15, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 24, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3718 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/843,628	08/22/2007	David L. Hauser	PVI-5939	5427

30452 7590 09/17/2010
EDWARDS LIFESCIENCES CORPORATION
LEGAL DEPARTMENT
ONE EDWARDS WAY
IRVINE, CA 92614

EXAMINER
MARMOR II, CHARLES ALAN

ART UNIT	PAPER NUMBER
3735	

MAIL DATE	DELIVERY MODE
09/17/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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EDWARDS LIFESCIENCES CORPORATION
LEGAL DEPARTMENT
ONE EDWARDS WAY
IRVINE CA 92614

In re Application of:
HAUSER, DAVID L. et al
Serial No. 11/843,628
Filed: Aug. 22, 2007
Docket: PVI-5939
Title: IMPLANTABLE DEVICE FOR TREATMENT OF VENTRICULAR DILATION

DECISION ON PETITION

This is a decision on the petition filed Sep. 17, 2009 requesting expunge of documents cited in an IDS. In the petition, petitioner requests expunge of all documents inadvertently filed on Sep. 14, 2009 from the case because these documents cited in the IDS were incorrect.

The petition is **granted**.

The USPTO does not remove any papers filed in an application. However, since the applicant has mistakenly filed the wrong documents on Sep. 14, 2009, the documents have been blocked from public view in the PAIR system.

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

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Paper No.

Carlineo, Spicer & Kee, LLC
2003 S. Easton Road, Suite 208
Doylestown PA 18901

MAILED

JAN 12 2012

OFFICE OF PETITIONS

In re Application of :
Vishwanathan et al. :
Application No. 11/843,702 : DECISION ON PETITION
Filed: August 23, 2007 : PURSUANT TO
Attorney Docket No. RCL-062-1 : 37 C.F.R. § 1.137(B)
Title: SYSTEM AND METHOD FOR SENDING MOBILE MEDIA CONTENT TO ANOTHER MOBILE DEVICE USER :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed December 22, 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 June 8, 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 September 9, 2011. A notice of abandonment was mailed on December 21, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted an amendment, the petition fee, and the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable.

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on December 22, 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.[1] All other inquiries concerning this application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/843,767	08/23/2007	Jeffrey D. Ferris	60137-506PUS1;136-3057-U	5648

82074 7590 01/03/2011
Carlson, Gaskey & Olds/Masco Corporation
400 West Maple Road
Suite 350
Birmingham, MI 48009

EXAMINER
HUYNH, KHOA D

ART UNIT	PAPER NUMBER
3751	

MAIL DATE	DELIVERY MODE
01/03/2011	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.

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Carlson, Gaskey & Olds/Masco Corporation
400 West Maple Road
Suite 350
Birmingham MI 48009

In re Application of:
FERRIS, JEFFREY D. et al.
Serial No.: 11/843,767
Filed: Aug. 23, 2007
Docket: 60137-506PUS1;136-3057-U
Title: REMOVABLE TUB DIVIDER

DECISION ON PETITION TO WITHDRAW DRAWING OBJECTION

This is a decision on the petition filed on Nov. 19, 2010 seeking reversal of drawing objection under 37 CFR 1.83(a). The petition is being considered pursuant to 37 CFR 1.181. No fee is required.

The petition is **DISMISSED**.

In the petition, the petitioner requests a review of the examiner's objection to the drawings under 37 CFR 1.83(a). In the Office action of March 11, 2010, the examiner objected to the drawing on the grounds that "the flange extending from at least one of the tub as recited in claim 11, and the slot on the removable wall as recited in claim 11" must be shown or the feature(s) canceled from the claim(s). In the Rule 111 amendment of June 10, 2010, the applicant added new claims 21-24 and submitted amended Figures 4A and 5A.

These claimed features are present in claims 1-35, 40, 41 and 46-70 and were not illustrated. Petitioner believes that the objection to the drawings is in error and requests review and relief therefrom.

The record shows that:

1) In a Non-Final Rejection on March 11, 2010, the examiner rejected claims 1-16 are rejected under applicable Sections of 35 U.S.C. 102 and 103. The examiner also objected to the drawing on the grounds that "the flange extending from at least one of the tub as recited in claim 11, and the slot on the removable wall as recited in claim11" must be shown or the feature(s) canceled from the claim(s).

2) In the June 10, 2010 amendment, the applicant, *inter alia*, added new claims 21-24 and submitted amended Figures 4A and 5A.

3) On July 27, 2010. the examiner issued a Final Rejection. In addition to the art rejection of the claims, the examiner objected to the newly amended/added drawings of Figs. 4A and 5A as new matter added. The examiner also maintained the drawing objection under 37 CFR §1.83(a)[1] because the features claimed in the newly added claim 22 were not illustrated.

4) On September 27, 2010, the applicant filed a Rule 116 amendment. In addition to the traversal of the rejection, the applicant argued the drawings; Figs. 4A and 5A do not contain any new matter. The objection of the drawing should be withdrawn.

5) In the Advisory Action of October 5, 2010, the examiner maintained his position that the drawings, Figs. 4A and 5A contain new matter and continued to refuse to accept.

6) In response to the Advisory Action, the applicant filed an RCE on November 19, 2010 with claim amendment.

7) On November 19, 2010, 2010, the current petition seeking withdrawal of the drawing objection under 37 CFR § 1.83(a) was filed.

8) On December 7, 2010, the examiner issued a non-final Office action. In addition to the art rejection, on pages 2-6 of the Offcie action, the examiner maintained his drawing objection because the claimed features in claims 1, 4, 11 and 23 were not illustrated. The examiner again refused to accept the amended drawings of Figs. 4A and 5A because they contain new matter. The examiner rejected claims 11 and 23 under the first patragraph of the 35 USC 112 as not supported by the original filed specification and contain new matter.

Discussion and Analysis

A review of the record indicates that the drawing objection and claim rejection are directed to the same issues. In the non-final Office action of Dec. 7, 2010, the rejection of claims 11 and 23 under the first paragraph of 35 USC 112, the examiner stated the claims fail to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The examiner also objected to the drawings because the subject matter of the claims is not illustrated by the original drawings. That is, the correctness of the examiner's drawing objection, refusal to accept the new drawings Figs. 4A and 5A, resting on the lack of clarity of claimed subject matter dependent on the correctness of the examiner's 35 U.S.C. 112 rejection of

[1] § 1.83 Content of drawing. (a) The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box). In addition, tables and sequence listings that are included in the specification are, except for applications filed under 35 U.S.C. 371, not permitted to be included in the drawings.

the claims. It is the policy of the USPTO in appropriate circumstances to decline to rule on a petitionable issue, when, as here, that an issue is also determinative of a rejection, and as such, is appropriate for consideration on appeal to the BPAI. In this case, the issue in the objection to the drawings and rejection of claims, as here, additionally and necessarily requires the exercise of technical skill and legal judgment in order to evaluate the facts presented, the issue is properly decided on the merits, and is properly reviewed on appeal, not petition. Under the circumstances, it is believed that the issues presented under the claim rejections and drawing objection in the instant case require the same review by the BPAI. Thus, this issue is appealable and should not be decided by petition.

Conclusion

For the foregoing reasons, the relief requested by the petitioner will not be granted. Because there is both an objection to drawings under 37 CFR 1.83(a) and a rejection to claims under 35 USC 112, first paragraph, and both the correctness of the objection and the rejection depend on the same issue, the issue is an appealable one and will not be decided by petition.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3751 for further processing. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED

Donald T. Hajec, Director
Technology Center 3700

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May 5, 2011

Michael F. Morano
F. Chau & Associates, LLC
130 Woodbury Road
Woodbury, New York 11797

Patent No.	: 7,902,738 B2
Ser. No.	: 11/843,830
Inventor(s)	: Choon-Sup Yoon, et al.
Issued	: March 8, 2011
Docket No.	: 8071-292
Title	: **ORGANIC LIGHT EMITTING DEVICE HAVING FIRST AND SECOND LIGHT EMMITTING MEMBERS**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460 or (703) 756-1814

vt

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Chien-Hui Su
P. O. Box 70-121 Taichung
Taichung City 40899 TW TAIWAN

MAILED
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OFFICE OF PETITIONS

In re Application of	:	
Scott Wang	:	
Application No.: 11/843834	:	DECISION ON
Filing or 371(c) Date: 08/23/2007	:	PETITION
Attorney Docket Number: GFP-996344	:	

This is a decision on the renewed Petition Under 37 C.F.R. 1.137(b), filed September 2, 2010.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed September 7, 2007. The Notice required 1) the basic filing; 2) an oath or declaration; (3) Replacement drawings, and a surcharge for the late filing of the basic filing fee, and set a two (2) month period for reply from the mail date of the Notice. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned November 8, 2007.

Applicant files the present petition and response to the Notice. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply, filed July 4, 2010; (2) the petition fee, and (3) the required statement of unintentional delay, included in the original petition filed March 16, 2010. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to the Office of Patent Application Processing ("OPAP") for processing of the reply to the Notice in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232. All other inquiries should be directed to the applicable Office.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357

MAILED

FEB 09 2011

OFFICE OF PETITIONS

NOTICE

In re Patent No. 7,871,798 :
Issue Date: January 18, 2011 :
Application No. 11/843,867 :
Filed: August 23, 2007 :
Attorney Docket No. 28967/5454N :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 13, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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HARTFORD CT 06103-3207

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In re Application of
Hua Zhang et al.
Application No. 11/843,926
Filed: August 23, 2007
Attorney Docket No. 224892-1

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed August 23, 2007 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on August 23, 2007 with an Oath executed by all joint inventors except Michael Michalski and seeking status under 37 CFR 1.47, due to the refusal of the non-signing inventor to cooperate with the filing of the instant application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition bears proof that the application papers were sent via email to Mr. Michalski. The evidence submitted also establishes that the email was in fact received by the non-signing inventor and that he has expressly refused to execute the oath or declaration. Neither has Mr. Michalski returned an executed copy of the oath or declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

Thus, as provided in Rule 1.47c, this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Petitioner is advised that the fee for a petition under 37 CFR 1.47 is set at $200 not $130 as indicated in the petition. As such, per the authorization included with the petition, deposit account no. 06-1130 has been charged in the amount of $200.

This matter is being referred to Technology Center 3745.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/08/11

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11844088 Patent No.: 7906105

CofC mailroom date: 03/29/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

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: _____

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

AU 1624

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
FEB 18 2011
OFFICE OF PETITIONS

LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

In re Application of :
Jung-Keun Kim, et al. :
Application No.: 11/844,237 : DECISION ON PETITION
Filed: August 23, 2007 :
Attorney Docket No.: 428.1137 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 13, 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 reply to the non-final Office action, mailed March 18, 2008, which set a shortened statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 19, 2008. A Notice of Abandonment was mailed on October 14, 2008. On December 13, 2010, the present petition was filed.

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).

Petitioner has supplied the reply in the form of an amendment and the petition fee of $820. No terminal disclaimer is required since the application was filed after June 8, 1995; however, the petition does not include an adequate statement of unintentional delay.

In this regard, there are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3)

provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Director may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over two years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on June 19, 2008. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as

well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over two years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District

LEXIS 50832, *10-*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

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]

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

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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MAILED
JUN 14 2011
OFFICE OF PETITIONS

LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

In re Application of
Jung-Keun Kim, et al.
Application No. 11/844,237
Filed: August 23, 2007
Attorney Docket No.: 428.1137

ON PETITION

This is a decision in response to the renewed petition, filed April 18, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 11, 2008. On December 13, 2010, a petition under the provisions of 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed February 17, 2011. On April 18, 2011, 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 conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

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. The extension of time submitted on December 13, 2010 was filed when the provisions of 37 CFR 1.136 could no longer be used. Therefore, this application became abandoned when the unextended time for response had expired, i.e., June 12, 2008. Since, no extension of time fees are due on a petition for revival, the $555 extension fees paid on December 13, 2010 are being refunded to counsel's credit card.

The application is being referred to Technology Center AU 1655 for consideration of the amendment filed December 13, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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LUCAS & MERCANTI, LLP
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NEW YORK NY 10016

MAILED
SEP 14 2011
OFFICE OF PETITIONS

In re Application of
Kim et al.
Application No. 11/844,237
Filed: 08/23/2007
Attorney Docket Number: 428.1137

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the PETITION TO ACCEPT UNINTENTIONALLY DELAYED CLAIM OF PRIORITY UNDER 35 USC 365(c) FOR THE BENEFIT OF PRIOR-FILED APPLICATION, filed on June 24, 2011, which is treated as a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed international application set forth in the concurrently-filed amendment and Application Data Sheet (ADS).

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) is accepted as being unintentionally delayed.

The rule at 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed PCT application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1665 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed application.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
11/844,237	08/23/2007	1655	425	428.1137	9	1

CONFIRMATION NO. 6448

CORRECTED FILING RECEIPT

20311
LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

OC000000049713496

Date Mailed: 09/13/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Jung-Keun KIM, Seongnam-si, KOREA, REPUBLIC OF;
Se-Won Kim, Cheonan-si, KOREA, REPUBLIC OF;
Hyung-Gun Kim, Seoul, KOREA, REPUBLIC OF;
Seon-Yle Ko, Yuseong-gu, KOREA, REPUBLIC OF;
Dong-Heon Baek, Seoul, KOREA, REPUBLIC OF;

Power of Attorney: The patent practitioners associated with Customer Number 20311

Domestic Priority data as claimed by applicant

This application is a CON of PCT/KR2006/000634 02/23/2006

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.)
REPUBLIC OF KOREA 10-2005-0015049 02/23/2005

If Required, Foreign Filing License Granted: 10/25/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/844,237**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

HERBAL MIXTURE EXTRACT OF REHMANNIAE RADIX PREPARATA AND ACANTHOPANACIS CORTEX AND A COMPOSITION COMPRISING THE SAME FOR PREVENTION AND TREATMENT OF OSTEOPOROSIS

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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GEORGE R. CORRIGAN
CORRIGAN LAW OFFICE
2168 COLLADAY POINT DRIVE
STOUGHTON WI 53589

MAILED
MAY 05 2011
OFFICE OF PETITIONS

In re Application of :
Uecker :
Application No.: 11/844,239 :
Filed: August 23, 2007 : ON PETITION
Attorney Docket No.: ITW 14509.61 :
For: METHOD AND APPARATUS FOR ARC :
WELDING WITH ARC CONTROL :

This is a decision on the petition under 37 CFR 1.137(b), filed March 7, 2011, to revive the above-identified application.

The petition is **granted**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of July 8, 2010. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Therefore, this application became abandoned on October 9, 2010. The filing of the present petition precedes the mailing of A Notice of Abandonment.

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).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and required $540.00 fee; (2) the petition fee of $1620.00; and (3) a proper statement of unintentional delay.

After the mailing of this decision, the file will be forwarded to Technology Center AU 3742 to await receipt of the appeal brief.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Serge J. BIERHUIZEN, et al	:	
Application No. 11/844,279	:	DECISION ON PETITION
Filed: August 23, 2007	:	
Attorney Docket No. 011705US1	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 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 Notice of Non-Compliant Amendment mailed, September 8, 2009, which set a reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) a 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 2814 for appropriate action by the Examiner in the normal course of business.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
12/360,028	01/26/2009	Donald S. Feuer	24173-0002004

CONFIRMATION NO. 5582

POWER OF ATTORNEY NOTICE

26181
FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000043615291

Date Mailed: 09/21/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/17/2010.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APR 16 2012
OFFICE OF PETITIONS

In re Application of	:	
Randolf Von Oepen, et al.	:	
Application No.: 11/844,313	:	ON PETITION
Filed: August 23, 2007	:	
Attorney Docket No.: ACSC 86516 (8353USO1)	:	

This is a decision in response to the petition entitled "Petition For Withdrawal From Issue Under 37 CFR 1.313(c)(2)," filed April 13, 2012.

Petitioner requests, in effect, that the application be withdrawn from issue in favor of a concurrently filed Request for Continued Examination (RCE) under 37 CFR 1.114.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on January 20, 2012, with the issue fee being due on or before April 20, 2012. It is noted that, while petitioner requests that the application be withdrawn from issue after payment of the issue fee, USPTO records fail to show receipt of an issue fee payment. Accordingly, the petition is being consisted under the provisions of 37 CFR 1.313(a).

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3734 for appropriate processing of the RCE filed April 13, 2012, and for consideration of the concurrently filed Information Disclosure Statement.

/SDB/
Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

MAILED
AUG 23 2011
OFFICE OF PETITIONS

In re Application of :
Tal et al. :
Application No. 11/844,343 : ON PETITION
Filed: August 23, 2007 :
Attorney Docket No. TI-65258 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 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 6, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 7, 2011. A Notice of Abandonment was mailed August 4, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 undersigned at (571) 272-6059.

This application is being referred to Technology Center AU 2611 for appropriate action by the Examiner in the normal course of business on the reply received August 11, 2011.

/A. Kelley-Collier/
Alicia Kelley-Collier
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.
11/844,455	08/24/2007	Sung-Kee CHUNG	Q103408	6872

23373 7590 05/06/2011
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
GOON, SCARLETT Y

ART UNIT	PAPER NUMBER
1623	

NOTIFICATION DATE	DELIVERY MODE
05/06/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

May 4, 2011

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of	:	
CHUNG, SUNG-KEE, et al.	:	**DECISION ON PETITION**
Application No. **11/844455**	:	
Filed: **08/24/2007**	:	
Attorney Docket No: **Q103408**		

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO August 24,2007.

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- 576-1565.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/844,455	08/24/2007	Sung-Kee CHUNG	Q103408	6872

7590 05/23/2011
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
GOON, SCARLETT Y

ART UNIT	PAPER NUMBER
1623	

NOTIFICATION DATE	DELIVERY MODE
05/23/2011	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

May 19, 2011

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

Re Application of	
CHUNG, SUNG-KEE, et al.	: **DECISION ON PETITION**
Application: **11/844455**	: **ACCEPTANCE OF COLOR**
Filed: **08/24/2007**	: **DRAWINGS**
Attorney Docket No: **Q103408**	:

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 13,2011.

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 containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

   "The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

APR 11 2011

OFFICE OF PETITIONS

TYSON J. WILDE
NOVATEK, INC.
2185 SOUTH LARSEN PARKWAY
PROVO UT 84606

In re Application of	:	
HALL, David R. et al.	:	
Application No. 11/844,466	:	DECISION ON PETITION
Filed: August 24, 2007	:	
Attorney Docket No. 85.0197	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 25, 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 February 07, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed November 05, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 08, 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.

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 Tredelle Jackson at (571) 272-2783.

This application is being referred to the Office of Data Management for processing into a patent.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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.
11/844,551	08/24/2007	Daniel G. Stearns	XENOP020/600/02000	7041

58766 7590 03/28/2012
Beyer Law Group LLP
P.O. BOX 1687
Cupertino, CA 95015-1687

EXAMINER
BOR, HELENE CATHERINE

ART UNIT	PAPER NUMBER
3768	

NOTIFICATION DATE	DELIVERY MODE
03/28/2012	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):

USPTOmail@beyerlaw.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

Beyer Law Group LLP
P.O. BOX 1687
Cupertino CA 95015-1687

In re Application of: STEARNS, DANIEL et al Serial No. 11/844,551 Filed: Aug. 24, 2007 Docket: XENOP020/600/02000 Title: APPARATUS AND METHODS FOR DETERMINING OPTICAL TISSUE PROPERTIES	DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition filed April 11, 2011 under 37 CFR 1.181 requesting the finality of the Office action of February 9, 2011 be withdrawn. The petition is being considered under 37 CFR 1.181 and no fee is required.

The petition is **dismissed as moot**.

In finding petitioner's points of argument persuasive, the requested relief is granted. The examiner has indeed issued a new non-final office action on May 26, 2011. The petition is moot and is dismissed.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS MOOT.

Angela D. Sykes, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 12/2/10

TO SPE OF : ART UNIT 3611

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/844603 Patent No.: 7802645 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Kevin Hurley 19 Jan 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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WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

MAILED
APR 08 2011
OFFICE OF PETITIONS

In re Patent No. 7,873,589	:	DECISION ON
Shiffman, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: January 18, 2011	:	AND NOTICE OF INTENT
Application No. 11/844,632	:	TO ISSUE
Filed: August 24, 2007	:	CERTIFICATE OF
Attorney Docket No. 31886-702.501	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT", filed February 18, 2011. Patentees request that the patent term adjustment indicated on the patent be corrected from four hundred thirty-three (433) days to four hundred sixty-eight (468) days.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **four hundred sixty-eight (468)** days.

On January 18, 2011, the above-identified application matured into U.S. Patent No. 7,873,589. Patentees timely filed an application for patent term adjustment under 37 CFR 1.705(d) on February 18, 2011. Patentees assert that they should not have been assessed applicant delay of sixty-one (61) days for the submission of a Rule 312 Amendment on November 19, 2010, after the Notice of Allowance was mailed on September 14, 2010. Rather, Patentees assert that they should have only been assessed applicant delay of twenty-six (26) days.

37 CFR 1.704(c)(10) states that applicant delay shall be assessed "beginning on the date the...paper was filed and ending on the mailing date of the Office action or notice in response to the... paper". Here, Applicant filed the Rule 312 Amendment on November 19, 2010, and the Office mailed a Response to Rule 312 Communication on December 14, 2010. Accordingly, Applicant should have been accorded 26 days of delay for the filing of the Rule 312 Amendment, not 61 days as reflected in PAIR.

In view thereof, the correct determination of PTA at the time of issuance is four hundred sixty-eight (468) days (630 (483+147) days of PTO delay, reduced by 162 (92+22+22+26) days of applicant delay).

The $200.00 fee set forth in 37 C.F.R. §1.18(e) has been charged to Deposit Account No. 23-2415, as authorized.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **four hundred sixty-eight (468)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Anthony Knight
Director
Office of Petitions

Enc: draft certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,873,589 B2

DATED : **January 18, 2011**

INVENTOR(S) : Shiffman 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 433 days.

Delete the phrase "by 433 days" and insert – by 468 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

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

MAILED

SEP 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Donovan, Roach, Campbell and Deo	:	DECISION ACCORDING STATUS
Application No. 11/844,656	:	UNDER 37 CFR 1.47(a)
Filed: 08/24/2007	:	
Attorney Docket No. 062891.1848	:	
Title: SYSTEM AND METHOD FOR	:	
MAINTAINING RESILIENCY OF	:	
SUBSCRIPTIONS TO AN EVENT SERVER	:	

This is in response to the petition under 37 CFR 1.47(a) filed November 6, 2007.

The petition is **GRANTED**.

Applicants have shown that the non-signing inventors have refused or cannot be located after diligent effort to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and are in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being referred to the Office of Data Management for issuance of a patent.

Inquiries regarding 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Adam B. Roach
9340 Briarhurst Drive
Dallas, Texas 75243

MAILED

SEP 14 2011

OFFICE OF PETITIONS

In re Application of :
Donovan, Roach, Campbell and Deo :
Application No. 11/844,656 : LETTER
Filed: 08/24/2007 :
Attorney Docket No. 062891.1848 :
Title: SYSTEM AND METHOD FOR :
MAINTAINING RESILIENCY OF :
SUBSCRIPTIONS TO AN EVENT SERVER :

Dear Mr. Roach:

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.

Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. 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 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Ben A. Campbell
204 Touchdown Drive
Irving, Texas 75063

MAILED

SEP 14 2011

OFFICE OF PETITIONS

In re Application of :
Donovan, Roach, Campbell and Deo :
Application No. 11/844,656 : LETTER
Filed: 08/24/2007 :
Attorney Docket No. 062891.1848 :
Title: SYSTEM AND METHOD FOR :
MAINTAINING RESILIENCY OF :
SUBSCRIPTIONS TO AN EVENT SERVER :

Dear Mr. Campbell:

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.

Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. 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 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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MAILED

SEP 14 2011

OFFICE OF PETITIONS

Ajay P. Deo
2508 Sir Tristram Lane
Lewisville, Texas 75056

In re Application of :
Donovan, Roach, Campbell and Deo :
Application No. 11/844,656 : LETTER
Filed: 08/24/2007 :
Attorney Docket No. 062891.1848 :
Title: SYSTEM AND METHOD FOR :
MAINTAINING RESILIENCY OF :
SUBSCRIPTIONS TO AN EVENT SERVER :

Dear Mr. Deo:

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.

Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. 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 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW LLP /PULMONX 017534
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

JUN 16 2011

OFFICE OF PETITIONS

In re Application of	:	
Hendricksen et al.	:	DECISION ON PETITION
Application No. 11/844,700	:	TO WITHDRAW
Filed: August 24, 2007	:	FROM RECORD
Attorney Docket No. 017534-006710US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 18, 2011.

The request is **NOT APPROVED.**

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted on May 18, 2011 is hereby not accepted. Petitioner has not complied with current USPTO requirements, as set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address (form PTO/SB/83). Specifically, pursuant to 37 CFR 10.40, the Office will require the practitioner(s) to certify that he, she or they have:

(1) given reasonable notice to the client, prior to the expiration of the reply period, that the practitioner(s) intends to withdraw from employment;

(2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and

(3) notified the client of any replies that may be due and the time frame within which the client must respond.

Petitioner has not complied with the above certifications. It is suggested that petitioner submit a properly completed PTO/SB/83 (form enclosed), which provides a section wherein practitioners may certify the completion of the above-listed activities necessary for the request to withdraw from representation to be granted.

Further, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been

made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. The Customer Number 20995 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71 As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is an outstanding Office action mailed March 16, 2011 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/83

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120119

DATE : January 26, 2012

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction on Patent No.: 7,458,509

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: /Michael G. Lee/ **Art Unit** 2876

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120212

DATE : February 28, 2012

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction on Patent No.: 7,458,509

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: Michael G. Lee **Art Unit** 2876

UNITED STATES 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 13,2011

In re Application of :

Yuji MIYATA

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11844753

Filed : 24-Aug-2007

Attorney Docket No : 006760.00073

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed April 13,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2157 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	11844753
Filing Date	24-Aug-2007
First Named Inventor	Yuji MIYATA
Art Unit	2157
Examiner Name	UYEN LE
Attorney Docket Number	006760.00073
Title	STORING IMAGE DATA IN AND RETRIEVING IMAGE DATA FROM MEMORY IN PRINT CONTROLLING SYSTEM

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

○ One or more claims are unpatentable

◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)

○ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request,submission, and fee.

☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on

☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors

○ A joint inventor; all of whom are signing this e-petition

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Gary D. Fedorochko/
Name	Gary D. Fedorochko
Registration Number	35509

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

MAILED
AUG 30 2010
OFFICE OF PETITIONS

In re Application of :
Michimasa Takahashi et al :
Application No. 11/844,788 : ON PETITION
Filed: August 24, 2007 :
Attorney Docket No. 311193US40

This is a decision on the petition, filed August 27, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 2, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2841 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
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ADELI & TOLLEN, LLP
11940 San Vicente Blvd., Suite 100
LOS ANGELES, CA 90049

MAILED
JAN 11 2012
OFFICE OF PETITIONS

In re Application of	:	
Gaurav Rewari, et al.	:	
Application No. 11/844,796	:	NOTICE
Filed: August 24, 2007	:	
Atty Docket No.: FRST.P0013	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed November 1, 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) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ADELI & TOLLEN, LLP
11940 San Vicente Blvd., Suite 100
LOS ANGELES CA 90049

MAILED
JAN 05 2012
OFFICE OF PETITIONS

In re Application of	:	
Rewari et al.	:	
Application No. 11/844,825	:	NOTICE
Filed: August 24, 2007	:	
Attorney Docket No. FRST.P0014	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed November 1, 2011.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

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
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Paper No.

STATTLER-SUH PC / NETLOGIC
60 SOUTH MARKET STREET
SUITE 480
SAN JOSE CA 95113

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Patent No. 7,856,570 :
Issue Date: 12/21/2010 :
Application Number: 11/844,836 :
Filing or 371(c) Date: 08/24/2007 :
Attorney Docket Number: NTLG.P0021 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed on October 1, 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 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.

Douglas Wood
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.
11/844,872	08/24/2007	William H. McKenna	085742-0090	7665

20277 7590 03/19/2012
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

EXAMINER
LEA, CHRISTOPHER RAYMOND

ART UNIT	PAPER NUMBER
1613	

NOTIFICATION DATE	DELIVERY MODE
03/19/2012	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):

mweipdocket@mwe.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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MAR 1 9 2012

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

In re Application of:	:
Mckenna, et al.	:
Serial No.: 11/844,872	: PETITION DECISION
Filed: August 24, 2007	:
Attorney Docket No.: **085742-0090**	:

This is in response to the petition under 37 CFR § 1.59(b), filed March 8, 2012, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on March 8, 2012, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/844,941	08/24/2007	Brian H. Johnstone	P01625-US-01	7809

22446 7590 06/10/2011
ICE MILLER LLP
ONE AMERICAN SQUARE, SUITE 3100
INDIANAPOLIS, IN 46282-0200

EXAMINER
CHEN, SHIN LIN

ART UNIT	PAPER NUMBER
1632	

MAIL DATE	DELIVERY MODE
06/10/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

June 9, 2011

ICE MILLER LLP
ONE AMERICAN SQUARE, SUITE 3100
INDIANAPOLIS IN 46282-0200

In re Application of	:	
Johnstone, Brian H. et,al	:	**DECISION ON PETITION**
Application No. 11/844,941	:	
Filed: 08/24/2007	:	
Attorney Docket No. P01625-US-01	:	

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, 2008.

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.

/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

August 16, 2011

ICE MILLER LLP
ONE AMERICAN SQUARE, SUITE 2900
INDIANAPOLIS IN 46282-0200

In re Application of	:	
JOHNSTONE, BRIAN H. et, al	:	**DECISION ON PETITION**
Application No. 11/844,941	:	
Filed: 08/24/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. P01625-US-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) July 19, 2011.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/844,995	08/24/2007	Alberto Brewer	024827-6701	7934

30542 7590 10/06/2010
FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

EXAMINER
BUI, HUNG S

ART UNIT	PAPER NUMBER
2841	

MAIL DATE	DELIVERY MODE
10/06/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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09212010

FOLEY & LANRDNER LLP
P.O BOX 80278
SAN JOSE, CA 92138-0278

In re Application of: Alberto Brewer Serial No.: 11/844,995 Filed: 08/24/2007 Attorney Docket No.: 024827-6701	: : : : :	DECISION *SUA SPONTE* WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A Notice of Appeal was filed on December 16, 2009 along with a Pre-Appeal Brief Request for Review. A Notice of Panel Decision from Pre-Appeal Brief Review ("Panel Decision") was mailed on April 23, 2010. The Panel Decision indicates that the time for filing the appeal brief in accordance with 37 CFR 41.37 was reset to run one month of the mail date of the Panel Decision or the balance of the two-month time period running from the date of the Notice of Appeal, whichever is greater. This time for filing the appeal brief is extendible under 37 CFR 1.136. The application was held abandoned by the examiner and a Notice of Abandonment was mailed on September 01, 2010.

Although no petition or request to withdraw the holding of abandonment has been filed, the Notice of Abandonment is hereby vacated, the holding of abandonment withdrawn and the application restored to pending and under appeal status in view of the fact that the maximum extendible time for filing the appeal brief will not expired until October 23, 2010 and the examiner erred in holding the application abandoned prematurely. Inconvenience to the appellant is regretted.

The appeal brief must be filed on or before October 25, 2010 (October 23, 2010 being a Saturday) along with appropriate request for extension of time and requisite fees.

Any inquiry regarding this decision should be directed to Jinhee J. Lee, Supervisory Patent Examiner, Art Unit 2841, at (571) 272-1977.

John W. Cabeca, Group Director
Technology Center 2800
Circuits/Measuring Testing

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

MAILED

MAR 21 2011

OFFICE OF PETITIONS

In re Application of
Matthew S. Gast
Application No. 11/845,029
Filed: August 24, 2007
Attorney Docket No. 43390-8026.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
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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
11/845,029	08/24/2007	Matthew S. Gast	43390-8026.US01

CONFIRMATION NO. 8024

POWER OF ATTORNEY NOTICE

22918
PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

OC000000046603947

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
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SAMUEL A. KASSATLY
20690 VIEW OAKS WAY
SAN JOSE, CA 95120

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of
Michel Sarkis Obeid
Application No. 11/845,060
Filed: August 25, 2007
Attorney Docket No. OBEID.US02

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed July 30, 2010 and resubmitted August 16, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from application where the requesting practitioners is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to the documents they file.

A review of the file record indicates that Samuel A. Kassatly does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: MICHEL SARKIS OBEID
1 RUE LEON DELAGRANGE
PARIS 75015 FRANCE

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SAMUEL A. KASSATLY
20690 VIEW OAKS WAY
SAN JOSE, CA 95120

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Michel Sarkis Obeid	:	
Application No. 11/845,064	:	DECISION ON PETITION
Filed: August 25, 2007	:	TO WITHDRAW
Attorney Docket No. OBEID.US06	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed July 30, 2010 and resubmitted August 16, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from application where the requesting practitioners is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to the documents they file.

A review of the file record indicates that Samuel A. Kassatly does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: MICHEL SARKIS OBEID
1 RUE LEON DELAGRANGE
PARIS 75015 FRANCE

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SAMUEL A. KASSATLY
20690 VIEW OAKS WAY
SAN JOSE, CA 95120

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of
Michel Sarkis Obeid
Application No. 11/845,067
Filed: August 25, 2007
Attorney Docket No. OBEID.US08

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed July 30, 2010 and resubmitted August 16, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from application where the requesting practitioners is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to the documents they file.

A review of the file record indicates that Samuel A. Kassatly does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: MICHEL SARKIS OBEID
1 RUE LEON DELAGRANGE
PARIS 75015 FRANCE

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SAMUEL A. KASSATLY
20690 VIEW OAKS WAY
SAN JOSE, CA 95120

MAILED
SEP 27 2010
OFFICE OF PETITIONS

In re Application of
Michel Sarkis Obeid
Application No. 11/845,067
Filed: August 25, 2007
Attorney Docket No. OBEID.US08

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed August 16, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from application where the requesting practitioners is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to the documents they file.

A review of the file record indicates that Samuel A. Kassatly does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: MICHEL SARKIS OBEID
1 RUE LEON DELAGRANGE
PARIS 75015 FRANCE

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SAMUEL A. KASSATLY
20690 VIEW OAKS WAY
SAN JOSE, CA 95120

MAILED
OCT 12 2010
OFFICE OF PETITIONS

In re Application of	:	
OBEID, Michel Sarkis	:	
Application No. 11/845,068	:	DECISION ON PETITION
Filed: August 26, 2007	:	TO WITHDRAW
Attorney Docket No. **OBEID.US09**	:	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 30, 2010 and resubmitted August 16, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Samuel A. Kassatly on behalf of all attorneys of record who are associated with customer No. 28357. All attorneys/agents associated 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 Michel Sarkis Obeid at the address indicated below.

There is an outstanding Office action mailed June 09, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MICHEL SARKIS OBEID**
1 rue LEON DELAGRANGE
PARIS 75015 FR FRANCE

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SAMUEL A. KASSATLY
20690 VIEW OAKS WAY
SAN JOSE, CA 95120

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Application of	:	
OBEID, Michel Sarkis	:	
Application No. 11/845,069	:	DECISION ON PETITION
Filed: August 26, 2007	:	TO WITHDRAW
Attorney Docket No. **OBEID.US10**	:	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 31, 2010 and resubmitted August 16, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Samuel A. Kassatly on behalf of all attorneys of record who are associated with customer No. 28357. All attorneys/agents associated 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 Michel Sarkis Obeid at the address indicated below.

There is an outstanding Office action mailed July 08, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MICHEL SARKIS OBEID**
1 rue LEON DELAGRANGE
PARIS 75015 FR FRANCE

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TUCKER ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND OH 44115-1414

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Application of	:
Fedor, et al.	: DECISION ON PETITION
Application No. 11/845,094	:
Filed: August 27, 2007	:
Docket No.: 012350/000002	:

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 9, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned February 24, 2011 for failure to timely reply to the non-final Office action mailed November 23, 2010. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed June 28, 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 reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $635.00 extension of time fee submitted herewith was subsequent to the maximum period obtainable for reply, this fee is unnecessary. Petitioner may request a refund by writing to the Office of Finance, Refund Section. A copy of this decision should accompany any request for refund. A refund has not been requested on behalf of petitioner as the deposit account referenced in the petition differs from that to which the fee was originally charged.

This application will be forwarded to Group Art Unit 3745 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BUCKLEY, MASCHOFF & TALWALKAR LLC
50 LOCUST AVENUE
NEW CANAAN CT 06840

MAILED
AUG 23 2011
OFFICE OF PETITIONS
ON PETITION

In re Patent No. 7,933,843 :
Issue Date: April 26, 2011 :
Application No. 11/845,112 :
Filed: August 27, 2007 :
Attorney Docket No. C11.005 :

This is a decision on the petition filed June 8, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3215. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Charlema Grant
Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309; subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES IA 50309-2721

MAILED

NOV 17 2010

OFFICE OF PETITIONS

In re Application of	:	
Kiest	:	
Application No. 11/845,134	:	DECISION
Filed: 27 August, 2007	:	
Attorney Docket No. P07813US00	:	

This is a decision on the petition filed on 13 May, 2010, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

Petitioner's submission is **ACCEPTED**.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities. **The additional fees were charged as authorized.**

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant application is released to Technology Center 3754 for further processing in due course.

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Application No. 11/845,134

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/845,165	08/27/2007	Kevin M. Harris	B06-41.2	8262

40990 7590 06/08/2011
ACUSHNET COMPANY
333 BRIDGE STREET
P. O. BOX 965
FAIRHAVEN, MA 02719

EXAMINER
WYATT, KEVIN S

ART UNIT	PAPER NUMBER
2878	

MAIL DATE	DELIVERY MODE
06/08/2011	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

June 7, 2011

ACUSHNET COMPANY
333 BRIDGE STREET
P. O. BOX 965
FAIRHAVEN MA 02719

In re Application of	:	
Kevin M. Harris et al.	:	**DECISION ON PETITION**
Application No. 11845165	:	
Filed: 08/27/2007	:	
Attorney Docket No. **B06-41.2**	:	

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) November 13, 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

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.
11/845,177	08/27/2007	Kevin M. Harris	B06-41.1	8282

40990 7590 08/31/2011
ACUSHNET COMPANY
333 BRIDGE STREET
P. O. BOX 965
FAIRHAVEN, MA 02719

EXAMINER
RICE, ELISA M

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
08/31/2011	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

August 31, 2011

ACUSHNET COMPANY
333 BRIDGE STREET
P. O. BOX 965
FAIRHAVEN MA 02719

In re Application of	:	
Harris, Kevin M. et, al	:	**DECISION ON PETITION**
Application No. 11/845,177	:	
Filed: 08/27/2007	:	
Attorney Docket No. B06-41.1	:	

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) November 13, 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 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 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.

/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

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

AUG 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Stuart Crawford et al	:	
Application No. 11/845,291	:	DECISION GRANTING PETITION
Filed: August 27, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 35006-541001US	:	

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 July 20, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2129 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW LLP /PULMONX 017534
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

JUN 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Nair et al.	:	DECISION ON PETITION
Application No. 11/845,296	:	TO WITHDRAW
Filed: August 27, 2007	:	FROM RECORD
Attorney Docket No. 017534-003810US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 18, 2011.

The request is **NOT APPROVED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted on May 18, 2011 is hereby not accepted. Petitioner has not complied with current USPTO requirements, as set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address (form PTO/SB/83). Specifically, pursuant to 37 CFR 10.40, the Office will require the practitioner(s) to certify that he, she or they have:

(1) given reasonable notice to the client, prior to the expiration of the reply period, that the practitioner(s) intends to withdraw from employment;

(2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and

(3) notified the client of any replies that may be due and the time frame within which the client must respond.

Petitioner has not complied with the above certifications. It is suggested that petitioner submit a properly completed PTO/SB/83 (form enclosed), which provides a section wherein practitioners may certify the completion of the above-listed activities necessary for the request to withdraw from representation to be granted.

Further, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been

made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. The Customer Number 20995 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71 As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is an outstanding Office action mailed April 13, 2011 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/83

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 09/22/11

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 11845308 Patent No.: 7812728

CofC mailroom date: 09/12/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: Should the changes in the claims be approved?

Yes

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ❑ **Approved** — **All** changes apply.
- X **Approved in Part** — Specify below which changes **do not** apply.
- ❑ **Denied** — State the reasons for denial below.

Comments: Col. 1, line 35, " " is already present.

/Benjamin C. Lee/ 2612

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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.
11/845,328	08/27/2007	Naoyuki Tokida	314035US2	8535

22850 7590 12/06/2010
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
DICKERSON, CHAD S

ART UNIT	PAPER NUMBER
2625	

NOTIFICATION DATE	DELIVERY MODE
12/06/2010	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):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of	:	
TOKIDA, NAOYUKI, et al.	:	DECISION ON REQUEST TO
Application No. 11/845,328	:	PARTICIPATE IN PATENT
Filed: August 27, 2007	:	PROSECUTION HIGHWAY
Attorney Docket No. **314035US2**	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(a)

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 October 20, 2010 to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Kenneth A. Wieder/

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Application:	:	
Wesley W. Whitmyer, Jr.	:	
Application No. 11/845,372	:	ON PETITION
Filed: August 27, 2007	:	
Attorney Docket No. 03000-P0004D	:	

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.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

K&L | GATES

FAX

Date	2011-09-13 09:58:22 CDT
Subject	Application No. 11/845,424 - Our File No. 3718582-00222 - Applicant Initiated Interview Request Form
Time	2011-09-13 09:58:22 CDT
Transmit To	'Examiner Paul D'Agostino
Company/Firm	USPTO
Fax No.	15712702992
From	Julie Alonzo

COMMENTS:

Julianne R. Alonzo
Legal Secretary
K&L Gates, LLP
70 W. Madison St. - Ste. 3100
Chicago, Illinois 60602-4207
t. 312-558-7395
f. 312-827-8000
julie.alonzo@klgates.com

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When you are sending to us, please be sure to include a cover sheet with your transmittal and a telephone number where you can be contacted in case of equipment malfunction.

Transmitted By:

Time:

IMPORTANT: The materials transmitted by this facsimile are sent by a lawyer or his/her agent, and are considered confidential and are intended only for the use of the individual or entity named. If the addressee is a client, these materials may also be subject to applicable privileges. If the recipient of these materials is not the addressee, or the employee or agent responsible for the delivery of these materials to the addressee, please be aware that any dissemination, distribution or copying of this communication is strictly prohibited. IF you have received this communication in error, please immediately notify us at +1.412.355.6500. We will reimburse you any costs incurred in connection with this erroneous transmission and your return of these materials. Thank you

PTOL-413A (02-09)
Approved for use through 03/31/2009. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Applicant Initiated Interview Request Form

Application No.: 11/845,424 First Named Applicant: Walker

Examiner: Paul D'Agostino Art Unit: 3716 Status of Application: Pending

Tentative Participants:

(1) Holby Abern (2) _____

(3) _____ (4) _____

Proposed Date of Interview: September 2011 **Proposed Time:** TBD **AM/PM**

Type of Interview Requested:

(1) ☑ **Telephonic** (2) ☐ **Personal** (3) ☐ **Video Conference**

Exhibit To Be Shown or Demonstrated: ☐ **YES** ☑ **NO**

If yes, provide brief description: _____

Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) Rejection	1	Newson	☐	☐	☐
(2) Rejection	28	Damico	☐	☐	☐
(3)			☐	☐	☐
(4)			☐	☐	☐

☐ Continuation Sheet Attached

Brief Description of Argument to be Presented:

Applicant will generally discuss the claims of the present application, the prior art of Newson and Damico and possible clarifying claim amendments, such as the proposed clarifying claim amendments to attached Claims 1 and 28. Applicant is open to discuss different/further clarifying claim amendments during the interview.

An interview was conducted on the above-identified application on _____ .

NOTE: This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

~~Applicant~~/Applicant's Representative Signature	Examiner/SPE Signature
Holby Abern	
Typed/Printed Name of Applicant or Representative	
47,372	
Registration Number, if applicable	

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PROPOSED CLAIM AMENDMENTS FOR INTERVIEW PURPOSES ONLY

Appl. No. 11/845,424

Claim 1 (currently amended): A method comprising:

prior to determining any outcomes for a play of a game, receiving a wager from a player on ~~of a gaming device an indication as to which~~ a selected symbol for the play of the game, said symbol selected from~~one of~~ a plurality of different symbols~~ on which the player is wagering~~;

~~initiating a game start;~~

causing at least one processor to execute a plurality of instructions to ~~determining~~ determine an outcome for the play of the game~~ start~~; and

providing the outcome to the player by:

causing ~~displaying~~ a plurality of reels to display ~~with~~ at least a subset of the plurality of symbols on a payline;

if the wagered on selected ~~one of the plurality of~~ symbols is positioned on the payline, causing at least one display device to display~~ing~~ an output audiovisual clip to the player, wherein the output audiovisual clip features a characteristic indicated by the selected symbol; and

informing the player of the outcome.

PAGE 4/5 * RCVD AT 9/13/2011 11:02:06 AM [Eastern Daylight Time] * SVR:W-PTOFAX-002/11 * DNIS:2702992 * CSID:19078652412 * DURATION (mm-ss):02-53

PROPOSED CLAIM AMENDMENTS FOR INTERVIEW PURPOSES ONLY

Appl. No. 11/845,424

Claim 28 (currently amended): A method comprising:

providing a plurality of thematically linked audiovisual clips that have been repurposed from their original purpose for use on a gaming device;

presenting a plurality of inputs on ~~a~~ the gaming device, wherein each input corresponds to a different element, each of the different elements being present in at least one of the plurality of thematically linked audiovisual clips;

causing at least one processor to execute a plurality of instructions to ~~associating~~ associate the different elements with a plurality of reels of the gaming device;

prior to determining any outcomes for a play of a game, receiving from a player an actuation of at least one ~~or more~~ of the plurality of inputs thereby indicating on which of the different elements the player is wagering;

causing the at least one processor to execute the plurality of instructions to ~~determining~~ determine a winning outcome; and

providing the winning outcome to the player by:

causing the at least one processor to execute the plurality of instructions to visually spin~~ning~~ the reels;

causing the at least one processor to execute the plurality of instructions to stop~~ping~~ the reels such that ~~at least some~~a plurality of the elements are positioned on a payline;

if the ~~at least some~~plurality of elements positioned on the payline correspond to the different elements on which the player is wagering, causing at least one display device to play~~ing~~ an audiovisual clip selected from the plurality of thematically linked audiovisual clips; and

informing the player of a payout.

PAGE 5/5 * RCVD AT 9/13/2011 11:02:06 AM [Eastern Daylight Time] * SVR:W-PTOFAX-002/11 * DNIS:2702992 * CSID:19078652412 * DURATION (mm-ss):02-53

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 23, 2011

TO SPE OF : ART UNIT 1743

SUBJECT : Request for Certificate of Correction for Appl. No. 11/845465 patent No.:7891636

C of C mailroom date:--5-6-11

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

_____

Certificates of Correction Branch

571-272- 0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

X	**Approved**	**All** changes apply.
☐	**Approved in Part**	Specify below which changes **do not** apply.
☐	**Denied**	State the reasons for denial below.

Comments: _____

/Joseph S. Del Sole/

SPE Joseph S. Del Sole

Art Unit 1743

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JAN 21 2011

OFFICE OF PETITIONS

BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA ON K1P 1J9 CA CANADA

In re Application of Terry A. Biusson Application No. 11/845,502 Filed: August 27, 2007 Attorney Docket No.: PAT 3675-2	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 12, 2010.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before October 14, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed July 14, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 15, 2010. A Notice of Abandonment was subsequently mailed on October 29, 2010. On November 12, 2010, the present petition was filed

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $755 issue fee and $300 publication fee; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management via Technology Center AU 2627 for appropriate action by the Examiner in response to the Petition to Correct Inventorship Under 37 CFR 1.48(a) and the Petition to Expedite Pursuant to 37 CFR 1.182.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
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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SCHWEGMAN, LUNDBERG & WOESSNER/INFINEON
P.O. Box 2938
Minneapolis, MN 55402

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AUG 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Thomas Kern	:	
Application No. 11/845,534	:	DECISION ON PETITION
Filed: August 27, 2007	:	TO WITHDRAW
Attorney Docket No. 2337.074US1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 19, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg & Woessner/Infineon has been revoked by the assignee of the patent application on February 24, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **ESCHWEILER & ASSOCIATES LLC**
629 Euclid Avenue, Suite 1000
National City Building
Cleveland, OH 44114

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED
JAN 05 2012
OFFICE OF PETITIONS

In re Application of	:	
Khandekar et al.	:	DECISION ON
Application No. 11/845,737	:	PETITION
Filed: August 27, 2007	:	
Attorney Docket No. 061820	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed December 16, 2011.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to file a timely and proper reply to the final Office action sent March 18, 2011. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. No proper reply having been received and no extension of time obtainable, the application became abandoned effective June 19, 2011. A courtesy Notice of Abandonment was mailed on November 14, 2011.

On petition, petitioner submitted a Request for Continued Examination (RCE) and submission under §1.114 (in the form of the previously submitted after-final amendment)(and RCE fee); paid the petition fee; and made the required statement of unintentional delay.

Technology Center AU 2465 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on petition filed December 16, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

/Nancy Johnson/

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	11845769
Filing Date	27-Aug-2007
First Named Inventor	Frank Nguyen
Art Unit	3717
Examiner Name	LAWRENCE GALKA
Attorney Docket Number	060411.000004
Title	MOBILE PHONE SYSTEM AND METHOD FOR SELF-CADDY

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 70416

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Frank Nguyen
Address	19334 DeHavilland Drive
City	San Jose
State	CA
Postal Code	95129
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Aaron Wininger, Reg. No. 45,229/
Name	Aaron Wininger
Registration Number	45229

UNITED STATES PATENT AND TRADEMARK OFFICE

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Decision Date : July 29,2011

In re Application of :

Frank Nguyen

Application No : 11845769

Filed : 27-Aug-2007

Attorney Docket No : 060411.000004

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed July 29,2011

The request is **APPROVED.**

The request was signed by Aaron Wininger (registration no. 45229) on behalf of all attorneys/agents associated with Customer Number 70416 . All attorneys/agents associated with Cusotmer Number 70416 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	Frank Nguyen
Name2	
Address 1	19334 DeHavilland Drive
Address 2	
City	San Jose
State	CA
Postal Code	95129
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

MAILED
AUG 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Martin B. Wolk, et al	:	
Application No.: 11/845,804	:	ON PETITION
Filed: August 28, 2007	:	
Attorney Docket No.: 66891/L550	:	

This is a decision on the petition, filed August 19, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 13, 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 2879 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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WALTER J. TENCZA JR.
SUITE 210
100 MENLO PARK
EDISON NJ 08837

MAILED
SEP 24 2010
OFFICE OF PETITIONS

In re Application of	:	
Nazrelee N. DUNHAM	:	
Application No. 11/845,848	:	DECISION ON PETITION
Filed: August 28, 2007	:	
Attorney Docket No. DUNHAM-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 21, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 22, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3742 for appropriate action by the Examiner in the normal course of business.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DUANE MORRIS LLP - Atlanta
IP DEPARTMENT
ATLANTIC CENTER PLAZA
1180 WEST PEACHTREE STREET, NW SUITE 700
ATLANTA GA 30309-3348

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NOV 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Quy That Ton	:	
Application No. 11/845,917	:	DECISION ON PETITION
Filed: August 28, 2007	:	
Attorney Docket No. E9063-00018	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 8, 2010, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely pay the issue and publication fees on or before August 13, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed May 13, 2010. Accordingly, the date of abandonment of this application is August 14, 2010. The Notice of Abandonment was mailed August 30, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300; (2) the petition fee of $80; (3) a proper statement of unintentional delay and; (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120119

DATE : January 19, 2012

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction on Patent No.: 7,746,137

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:

/SHAWKI ISMAIL/
Supervisory Patent Examiner.Art Unit 2819

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FAY SHARPE/LUCENT
1228 EUCLID AVENUE, 5TH FLOOR
THE HALLE BUILDING
CLEVELAND OH 44115-1843

MAILED

JUL 22 2011

OFFICE OF PETITIONS

In re Application of :
Fahldieck :
Application No. 11/845,988 : DECISION
Filed/Deposited: 28 August, 2007 :
Attorney Docket No. LUTZ 200828 :

This is a decision on the papers filed on 11 July, 2011, 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 appears to have chosen not to comply with the guidance in the Commentary at to ignore at MPEP §711.03(c)(I) for as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

Petitioner would find it beneficial to:

- review 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, and then
- track that guidance in his future submissions to the Office.

Thus, if as here Petitioner seeks to aver that the reply was timely filed, Petitioner's showing would include:

- a statement of facts surrounding the events,
- a copy of the docket sheet and due date calendar required and
- the statements set forth in the guidance as necessary for the proper showing.

The Rules of Practice and the guidance in Commentary in the MPEP provide protections and benefits for applicants and practitioners, however, those protections and benefits are unavailable when those rules are not complied with/followed.

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. §1.181."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Non-Compliant Amendment mailed on 12 October, 2010, with reply due absent extension of time on or before 12 November, 2010.

The application went abandoned by operation of law after midnight 12 November, 2010.

The Office mailed the Notice of Abandonment on 17 May, 2011.

On 11 July, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 averring non-receipt, but failed to comply with the showing required under the Rule—but instead chose to make a conclusory statement as to the mailing Thus, it does not appear as of this writing that Petitioner has satisfied the showing required under the Rule.

The Rules of Practice and the guidance in Commentary in the MPEP provide protections and benefits for applicants and practitioners, however, those protections and benefits are unavailable when those rules/guidance are not complied with/followed.

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]

***

A Petitioner unable to comply with and/or otherwise satisfy these requirements may wish to revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

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

[1] *See*: MPEP §711.03(c) (I)(A).

and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18 (formerly 37 C.F.R. §10.18) to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

> and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

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.

As discussed above, Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner pursuant to 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

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

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[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FAY SHARPE/LUCENT
1228 EUCLID AVENUE, 5TH FLOOR
THE HALLE BUILDING
CLEVELAND OH 44115-1843

MAILED

SEP 29 2011

OFFICE OF PETITIONS

In re Application of
Fahldieck
Application No. 11/845,988
Filed/Deposited: 28 August, 2007
Attorney Docket No. LUTZ 200828

DECISION

This is a decision on the papers filed on 22 September, 2011, 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 contends that the Office denied his petition of 11 July, 2011.[1]

Petitioner's careful review of the 22 July, 2011, decision will demonstrate that the 11 July, 2011, petition was **dismissed**.

Had the petition been denied, Petitioner would have been reminded at that time the decision constituted final agency action.

However, the decision expressly stated at page 2: "This is **not** a final agency action within the meaning of 5 U.S.C. §704." (Emphasis, the original.)

Thus, the petition was not denied.

The petition pursuant to 37 C.F.R. §1.181 is **GRANTED**.

[1] Petition at page 2.

Application No. 11/845,988

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 Notice of Non-Compliant Amendment mailed on 12 October, 2010, with reply due absent extension of time on or before 12 November, 2010.

The application went abandoned by operation of law after midnight 12 November, 2010.

The Office mailed the Notice of Abandonment on 17 May, 2011.

On 11 July, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 averring non-receipt, but failed to comply with the showing required under the Rule—but instead chose to make a conclusory statement as to the mailing Thus, it did not appear that Petitioner satisfied the showing required under the Rule. The petition was dismissed on 22 July, 2011.

On 22 September, 2011, Petitioner re-advanced his petition and moved stepwise through the showing of nonreceipt consistent with the guidance in the Commentary at MPEP §711.03(c)(I), including therewith the statements and the documents required.

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.[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]

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[2] *See*: MPEP §711.03(c) (I)(A).

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18 (formerly 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,

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 17 May, 2011, Notice of Abandonment hereby is **vacated**.

The instant application is released to the Technology Center/AU 2472 for further processing in due course—it is noted that Petitioner appears to have included a reply to the Notice of Noncompliant Amendment to be considered by the Examiner.

---

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 OPAP in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the OPAP 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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OFFICE OF PETITIONS

MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE IL 60048-5343

In re Application of	:	
Eric J. Sprunk et al.	:	
Application No. 11/846,045	:	DECISION ON PETITION
Filed: August 28, 2007	:	
Attorney Docket No. P4000	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 25, 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, April 19, 2011, which set a shortened statutory period for reply of three (3) months. A three month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 20, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2492 for appropriate action by the Examiner in the normal course of business on the reply received October 25, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Susan R. Payne
6450 Sequence Drive
San Diego, CA 92121

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : May 18,2011

In re Application of :

Yungryel Ryu

Application No : 11846191

Filed : 28-Aug-2007

Attorney Docket No : MOXT-106-US

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 May 18,2011

The request is **APPROVED.**

The request was signed by D. Jacobs (registration no. 31770) on behalf of all attorneys/agents associated with Customer Number 45464 . All attorneys/agents associated with Cusotmer Number 45464 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	Yungryel Ryu
Name2	MOXTRONICS, INC.
Address 1	4439 Ish Drive
Address 2	
City	Simi Valley
State	CA
Postal Code	93063
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

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JACOBS & KIM LLP
1050 WINTER STREET
SUITE 1000, #1082
WALTHAM MA 02451-1401

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Application of	
RYU, et al	
Application No. 11/846,191	DECISION ON PETITION
Filed: August 28, 2007	TO WITHDRAW
Attorney Docket No. MOXT-106-US	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 8, 2011.

The request is **NOT APPROVED.**

The request to withdraw from record cannot be approved because the change of address for future communication from the Office cannot be accepted, since the address is not that of the first named inventor or an assignee who has not properly become of record under 37 CFR 3.71. An assignee becomes of record by submitting a proper statement under 37 CFR 3.73(b). Please see 37 CFR 3.71. To expedite the review and processing of any future Request to Withdraw from record, any future submissions should include a proper statement under 37 CFR 3.73(b), if the change of address is to an assignee or the current address of the first named inventor.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272- 6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: HENRY WHITE
C/O MOXTRONICS, INC.,
4439 ISH DRIVE
SIMI VALLE CA 93063

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	11846191
Filing Date	28-Aug-2007
First Named Inventor	Yungryel Ryu
Art Unit	2815
Examiner Name	YU CHEN
Attorney Docket Number	MOXT-106-US
Title	FILMS AND STRUCTURES FOR METAL OXIDE SEMICONDUCTOR LIGHT EMITTING DEVICES AND METHODS

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 45464

The reason(s) for this request are those described in 37 CFR:

10.40(c)(1)(iv)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Yungryel Ryu MOXTRONICS, INC.
Address	4439 Ish Drive
City	Simi Valley
State	CA
Postal Code	93063
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/David Jacobs/
Name	D. Jacobs
Registration Number	31770

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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APR 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Black et al.	:	
Application No. 11/846,211	:	ON PETITION
Filed: August 28, 2007	:	
Attorney Docket No. 7060/83798	:	

This is a decision on the Petition for General Authorization for Petition for Extension of Time under 37 CFR 1.136(a)(3) to Provide Extension of Time Solely to Establish Co-Pendency for a Continuation Application, which will be considered under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment, filed December 7, 2010, or in the alternative, a Petition under 37 CFR 1.137(b) to Revive an Unintentionally Abandoned Application.

The petition under 37 C.F.R. § 1.181 is **DISMISSED**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action mailed May 10, 2010. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 11, 2010. A Notice of Abandonment was mailed on December 3, 2010.

In response to the May 10, 2010 Office action, a continuation application was filed on November 8, 2010. However, the instant application was deemed abandoned as no extension of time was timely filed in the instant application to establish co-pendency. Petitioner contends, however, that because a General Authorization for Petition for Extension of Time under 37 CFR 1.136(a)(3) was submitted upon filing of the instant application, "the Patent Office should automatically deem the petition for the extension of time to have been submitted upon the filing of continuation application."

However, MPEP 201.06(c)(X) clearly states,

> If an extension of time is necessary to establish continuity between the prior application and the continuing application filed under 37 CFR 1.53(b), **the petition for an extension of time must be filed as a separate paper directed to the prior nonprovisional application**. Under 37 CFR 1.136(a)(3), an authorization to charge all required fees, fees under 37 CFR 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time for its timely submission. A continuing application filed under 37 CFR 1.53(b) is a new application which is assigned a new application number and filing

date and is maintained separately from the file of the prior application. **The filing of a continuing application is not a paper directed or placed in the file of the prior application and is not a "reply" to the last Office action in the prior application**. Thus, a petition for an extension of time and the fee set forth in 37 CFR 1.17 are required to be filed as a separate paper in the prior application. Any petition for an extension of time directed to the prior application must be accompanied by its own certificate of mailing under 37 CFR 1.8 (if mailed by first class mail) or under 37 CFR 1.10 (if mailed by Express Mail), if the benefits of those rules are desired.

As petitioner did not comply with the above, the instant application was properly abandoned and the petitioner under 37 CFR 1.181 is hereby dismissed.

However, as petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b), the petition under 37 C.F.R. § 1.137(b) 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). Accordingly, since the $1,100.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 12/941,658.

Telephone inquiries should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 10, 2011

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/846237 patent no 7864491

CofC mailroom date: 01-24-11

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

Magdalene Talley

Certificates of Correction Branch

571-272-0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: The requested correction has been approved since it serves to clarify the claim and corrects an inadvertent omission in the amendment filed on 08/05/2010.

/Jared Fureman/ 2836

Formatted: Indent: Left: 88 pt

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 W. PRAVEL
PRAVEL INTELLECTUAL PROPERTY LAW, PC
1800 DIAGONAL ROAD
SUITE 600
ALEXANDRIA, VA 22314

MAILED
OCT 29 2010
OFFICE OF PETITIONS

In re Application of	:	
Karun Laisathit	:	DECISION ON PETITION
Application No. 11/846,349	:	TO WITHDRAW
Filed: August 28, 2007	:	FROM RECORD
Attorney Docket No. 4200.2	:	

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 and supplemented on October 25, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 James W. Pravel, on behalf of the practitioners of record associated with Customer No 25248.

Customer No 25248 has been withdrawn as from record. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed June 10, 2010, that require a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: KARUN LAISATHIT
71 MU 1, BANGKRUAY ROAD
BANGKRUAY DISTRICT, NONTHABURI 11103 THAILAND

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
11/846,349	08/28/2007	Karun LAISATHIT	4200.2

CONFIRMATION NO. 1240

POWER OF ATTORNEY NOTICE

OC000000044256355

25248
JAMES W. PRAVEL
PRAVEL INTELLECTUAL PROPERTY LAW, PC
1800 DIAGONAL ROAD
SUITE 600
ALEXANDRIA, VA 22314

Date Mailed: 10/29/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/25/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/atkelley/

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 : 4/6/2011

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/846356 Patent No.: 7902993 B2

CofC mailroom date: 3/31/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: It has been noted that applicant did not used the conventional form of pointing to claim limitations. For example, the usual convention is to point to claim and line number of the claim. However, applicant has pointed to the claim and line number of the page.

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 4/6/2011

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/846356 Patent No.: 7902993 B2

CofC mailroom date: 3/31/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Note: Applicant has used line number of the page rather than line number of the claims to specify place of amendmen

/Benjamin C. Lee/ — **SPE**

2612 — **Art Unit**

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QD VISION, INC.
313 PLEASANT STREET
4TH FLOOR
WATERTOWN MA 02472

MAILED
NOV 15 2010
OFFICE OF PETITIONS

In re Application of
Skipor et al.
Application No. 11/846,360
Filed: August 28, 2007
Attorney Docket No. CML05574T

DECISION ON PETITION

This is a decision on the petition, filed September 17, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before August 28, 2010, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed May 28, 2010.

Petitioner asserts that the Notice of Allowance and Notice of Allowability dated May 28, 2010 was not received.

A review of the written record indicates an irregularity in the mailing of the Notice of Allowance and Notice of Allowabilty of May 28, 2010. In this regard, the Office received a change of address on May 28, 2010, on the same day that the Notice of Allowance was mailed, thus the Notice crossed in the mail.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 2875 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of May 28, 2010. The period for paying the issue and publication fees and submitting corrected drawings (if applicable) will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Charlema Grant
Petitions Attorney
Office of Petitions

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ISHMAN LAW FIRM P.C.
9660 FALLS OF NEUSE ROAD
SUITE 138-350
RALEIGH NC 27615

MAILED
MAR 22 2012
OFFICE OF PETITIONS

In re Application of :
Acie Brown et al. :
Application No. 11/846,377 : ON PETITION
Filed: August 28, 2007 :
Attorney Docket No.: 8049-04-07 :

This is a decision on the petition filed March 1, 2012 under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

A Restriction Requirement mailed on March 26, 2010 set the longer of one month or thirty days as the period for reply. No response to the March 26, 2010 Restriction Requirement having been timely filed, the application became abandoned April 27, 2010. Accordingly, the Notice of Abandonment was mailed October 14, 2010.

The petition fee in the amount of $930.00 has been charged to the credit card provided.

The response to the Restriction Requirement filed March 1, 2012 will be referred to Technology Center 1784 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

/Patricia Faison-Ball/

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

MAILED
MAY 06 2011
OFFICE OF PETITIONS

In re Application of :
Banumathi Sankaran et al :
Application No. 11/846,390 : DECISION ON PETITION
Filed: August 28, 2007 :
Attorney Docket No. CDS5068USNP :

This is a decision on the petition, filed April 7, 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 September 28, 2009, which set one (1) month or thirty (30) days, whichever is longer, period for reply. A Notice of Abandonment was mailed on April 29, 2010.

Petitioner asserts that the Office action dated September 28, 2009 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of September 28, 2009. In this regard, the Office action was never mailed. Accordingly, the Notice of Abandonment mailed April 29, 2010 is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 1645 for remailing the Office action of September 28, 2009 and resetting the period for reply.

Telephone inquiries related to this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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AUG 09 2010

OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of :
LeBlanc :
Application No. 11/846,399 : ON APPLICATION FOR
Filed: August 28, 2007 : PATENT TERM ADJUSTMENT
Attorney Docket No. 13293US02 :

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DTERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 USC 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)" filed July 21, 2010. Applicants request that the determination of patent term adjustment be corrected from one hundred and ten (110) days to two hundred and fifty-four (254) 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].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). 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 assert the 1 day reduction to the patent term adjustment for the filing of a response on May 24, 2010, three

---

[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.

months and one day after a non-final Office action was mailed on February 23, 2010, was improper. In summary, applicants state that the date that was three months after the mailing of the final Office action was Sunday, May 23, 2010, therefore, the filing of the response on Monday May 24, 2010, was timely.

Applicants' argument is not persuasive. Pursuant to 37 CFR 1.704(b), the period of adjustment of the term of the patent should be reduced by 1 day, the number of says in the period beginning on the day after the date that is three months after the date of mailing of the non-final Office action, May 24, 2010, and ending on the date the reply was filed, May 24, 2010. The calculation of 1 day of applicant delay is based on the date of receipt of the response in the Office. The Office notes that 35 U.S.C. 154(b)(2)(C)(ii) does not require that a reply be filed in the Office within its three month grace period, but simply specifies that there is this three month period. Therefore, the "carry-over" provisions of 35 U.S.C. 21(b) does not apply to the three month periods in 35 U.S.C. 154(b)(2)(C)(ii). Accordingly, the reduction to the patent term adjustment of 1 day was warranted and will not be removed.

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. 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

Commissioner for Patents
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Alexandria, VA 22313-1450
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MCDONNELL BOEHNEN
HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED
FEB 13 2012
OFFICE OF PETITIONS

In re Patent No. 8,073,630 :
Issue Date: December 6, 2011 :
Application No. 11/846,406 : DECISION ON PETITION
Filed: August 28, 2007 :
Attorney Docket No. 10-1329-US :

This is a decision on the Request For Certificate of Correction Pursuant To 37 C.F.R. § 1.322, which is being treated as a Petition Under 37 CFR §3.81(b), filed December 21, 2011, to identify the correct assignee's name and residence. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the assignee's name and residence on the previously submitted PTOL 85B and such error was typographical. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name and residence identified thereon from:

"Exagen Diagnostics, Inc., Albuquerque, NM (US)"

to:

--Academisch Zeikenhuis H.O.D.N. LUMC, Leiden, Netherlands, (NL)--

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 the requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR §1.20(a), was 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.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 8,073,630.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SW Patent Office
C/O PAT. OFFICE, BANGSHIA
102 Lindencrest
Sugar Land TX 77479

MAILED
MAR 12 2012
OFFICE OF PETITIONS

In re Application of
Lao et al.
Application No. 11/846,436
Filed: August 28, 2007
Attorney Docket No. SW-971310

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 10, 2012, to revive the above-identified application.

The petition is **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 file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 13, 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).

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) 1.

As to item (1), the examiner has determined that the amendment after final does not place the application in condition for allowance. An advisory action accompanies this decision.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney Advisor
Office of Petitions

Enclosure: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 11/846,436	**Applicant(s)** LAO ET AL.
	Examiner MADISON L. WRIGHT	**Art Unit** 3781

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 January 2012 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

NO NOTICE OF APPEAL FILED

1. ☒ The reply was filed after a final rejection. No Notice of Appeal has been filed. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114 if this is a utility or plant application. Note that RCEs are not permitted in design applications. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action; or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   c) ☐ A prior Advisory Action was mailed more than 3 months after the mailing date of the final rejection in response to a first after-final reply filed within 2 months of the mailing date of the final rejection. The current period for reply expires months from the mailing date of *the prior Advisory Action* or SIX MONTHS from the mailing date of the final rejection, whichever is earlier.
   Examiner Note: If box 1 is checked, check either box (a), (b) or (c). ONLY CHECK BOX (b) WHEN THIS ADVISORY ACTION IS THE FIRST RESPONSE TO APPLICANT'S FIRST AFTER-FINAL REPLY WHICH WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. ONLY CHECK BOX (c) IN THE LIMITED SITUATION SET FORTH UNDER BOX (c). See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) or (c) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendments filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   b) ☐ They raise the issue of new matter (see NOTE below);
   c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): (a) ☒ will not be entered, or (b) ☐ will be entered, and an explanation of how the new or amended claims would be rejected is provided below or appended.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing the Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

STATUS OF CLAIMS

14. The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed:
   Claim(s) objected to:
   Claim(s) rejected: 1-9.
   Claim(s) withdrawn from consideration:

Continuation of 3. NOTE: The amendment would broaden the scope of the claim .

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SW Patent Office
C/O PAT. OFFICE, BANGSHIA
102 Lindencrest
Sugar Land TX 77479

MAILED
MAR 23 2012
OFFICE OF PETITIONS

In re Application of
Lao et al.
Application No. 11/846,436
Filed: August 28, 2007
Attorney Docket No. SW-971310

ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 20, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 13, 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). A petition filed under 37 CFR 1.137(b) was dismissed on March 12, 2012.

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 $465.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $930.00; and (3) a proper 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 3781 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Charlema Grant
Attorney Advisor
Office of Petitions

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MOORE & VAN ALLEN PLLC
PO BOX 13706
RESEARCH TRIANGLE PARK NC 27709

MAILED

MAR 16 2012

OFFICE OF PETITIONS

In re Application	:	
Mueller, et al.	:	
Application No. 11/846,574	:	DECISION ON APPLICATION
Filed: August 29, 2007	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 034643-000263	:	

This is a decision on the "APPLICATION UNDER 37 CFR 1.705 FOR CORRECTION OF PATENT TERM ADJUSTMENT", filed February 20, 2012. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from eight hundred sixty-eight (868) days to eight hundred seventy (870) days.

The application for patent term adjustment is **GRANTED.**

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **eight hundred seventy (870) days.** A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 18, 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 eight hundred sixty-eight (868) days.

On February 20, 2011, Applicants timely[1] submitted the instant application for patent term adjustment.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of eight hundred sixty-eight (868) days based on an adjustment of eight hundred seventy (870) days of PTO delay pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by two (2) days of applicant delay pursuant to 37 C.F.R. § 1.704(b).

Applicants assert that they were improperly assessed Applicant delay of two days for filing a response to a March 18, 2011 Office action on June 20, 2011, when June 18, 2011 fell on a Saturday. Applicants' argument has been considered, and found to be persuasive.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **eight hundred seventy (870) days** (870 days of PTO delay, reduced by 0 days of applicant delay).

Receipt of the $200 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: updated PAIR screen

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[1] Applicants filed the application for patent term adjustment together with the payment of the issue fee. February 20, 2012 was timely because February 18, 2012 fell on a Saturday. See 37 CFR 1.7(a).

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11846574

Application Filing Date	08/29/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	870
A Delays	870	PTO Manual Adjustment	2
B Delays	0	Applicant Delay (APPL)	2
C Delays	0	Total PTA (days)	870

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
58	03/15/2012		P028	Adjustment of PTA Calculation by PTO	2		0
50	11/18/2011		MN/=.	Mail Notice of Allowance			0
49	11/17/2011		IREV	Issue Revision Completed			0
48	11/17/2011		OAR	Office Action Review			0
47	11/17/2011		OAR	Office Action Review			0
46	11/17/2011		OAR	Office Action Review			0
40	11/15/2011		OAR	Office Action Review			0
39	11/15/2011		OAR	Office Action Review			0
38	11/15/2011		OAR	Office Action Review			0
37	11/15/2011		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
36	11/15/2011		DVER	Document Verification			0
35	11/15/2011		N/=.	Notice of Allowance Data Verification Completed			0
34	11/15/2011		DOCK	Case Docketed to Examiner in GAU			0
33	11/10/2011		EX.A	Examiner's Amendment Communication			0
32	11/10/2011		CTRT	Telephonic restriction			0
31	11/10/2011		CNTA	Allowability Notice			0
30	11/02/2011		FWDX	Date Forwarded to Examiner			0
29	10/31/2011		A.NE	Amendment after Final Rejection			0
28	08/31/2011		MCTFR	Mail Final Rejection (PTOL - 326)			0
27	08/29/2011		OAR	Office Action Review			0
26	08/29/2011		CTFR	Final Rejection			0
25	06/24/2011		FWDX	Date Forwarded to Examiner			0
24	06/20/2011	06/18/2011	A...	Response after Non-Final Action		2	23
23	03/18/2011	10/29/2008	MCTNF	Mail Non-Final Rejection	870		0.5
22	03/14/2011		CTNF	Non-Final Rejection			0
20	01/06/2011		DOCK	Case Docketed to Examiner in GAU			0
19	08/02/2010		PA..	Change in Power of Attorney (May Include Associate POA)			0
18	07/29/2010		C.AD	Correspondence Address Change			0
17	03/30/2010		DOCK	Case Docketed to Examiner in GAU			0
16	03/05/2009		PG-ISSUE	PG-Pub Issue Notification			0
15	03/21/2008		DOCK	Case Docketed to Examiner in GAU			0
14	01/18/2008		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
12	11/30/2007		OIPE	Application Dispatched from OIPE			0
21	11/29/2007		IDSC	Information Disclosure Statement considered			0
13	11/29/2007		EIDS.	Electronic Information Disclosure Statement			0
11	11/29/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
10	11/20/2007		PGPC	Sent to Classification Contractor			0
9	11/20/2007		FLRCPT.U	Filing Receipt - Updated			0
8	11/13/2007		ADDFLFEE	Additional Application Filing Fees			0
7	11/13/2007		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
6	10/31/2007		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
5	10/31/2007		FLRCPT.O	Filing Receipt			0
4	10/25/2007		L128	Cleared by L&R (LARS)			0
3	08/30/2007		L198	Referred to Level 2 (LARS) by OIPE CSR			0
2	08/29/2007		SCAN	IFW Scan & PACR Auto Security Review			0
1	08/29/2007		IEXX	Initial Exam Team nn			0
0.5	08/29/2007		EFILE	Filing date			0

Export to: Excel

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CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP
STEVEN M. GREENBERG
950 PENINSULA CORPORATE CIRCLE
SUITE 2022
BOCA RATON FL 33487

MAILED
AUG 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Al Chakra et al.	:	
Application No. 11/846,617	:	DECISION ON PETITION
Filed: August 29, 2007	:	
Attorney Docket No. RSW920070116US2	:	

This is a decision on the petition, filed June 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 **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 timely respond to the Office action mailed November 2, 2010. A response was due on or before February 2, 2011. No extensions of time under 37 CFR 1.36(a) were obtained. A Notice of Abandonment was mailed June 13, 2011.

Petitioner asserts that a timely response was submitted electronically on January 31, 2011 which included the following papers: an amendment. The petitioner has included herewith petition an EFS acknowledgement that shows an amendment was submitted, however, the petitioner provided an incorrect copy of the amendment. The amendment provided has the wrong application number(s) on the first page and throughout the claim(s) pages.

Accordingly, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b)

stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $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 Terri Johnson at (571) 272-272-2991.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
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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CAREY, RODRIGUEZ, GREENBERG & O''KEEFE, LLP
STEVEN M. GREENBERG
950 PENINSULA CORPORATE CIRCLE
SUITE 2022
BOCA RATON FL 33487

MAILED

SEP 26 2011

OFFICE OF PETITIONS

In re Application of	:	
Al Chakra, et al.	:	
Application No. 11/846,617	:	DECISION ON PETITION
Filed: August 29, 2007	:	
Attorney Docket No. RSW920070116US2	:	

This is a decision on the renewed petition, filed August 31, 2011, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Non-Final Office action of November 22, 2010 which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before February 22, 2011. A Notice of Abandonment was mailed June 13, 2011.

Petitioner states that a timely reply was electronically submitted on January 31, 2011 which included the following papers: an amendment. Petitioner has submitted a copy of the previously submitted correspondence and electronic acknowledgement receipt dated January 31, 2011, 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, electronic acknowledgement receipt 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 Non Final Office action of November 2, 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 or electronically) on January 31, 2011.

This application is being referred to the Technology Center AU 2175 for appropriate action in the normal course of business on the reply received with petition.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : October 28, 2010

TO SPE OF : ART UNIT 1626
SUBJECT : Request for Certificate of Correction for Appl. No/11/846669/ 7595320

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch
571-272-0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved** — X **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: It is okay to approve this CoC.

SPE **Art Unit**

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/846,755	08/29/2007	Tatsuya KANDO	P31947	1008

7055 7590 03/24/2011
GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER
GALKA, LAWRENCE STEFAN

ART UNIT	PAPER NUMBER
3717	

NOTIFICATION DATE	DELIVERY MODE
03/24/2011	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):

gbpatent@gbpatent.com
pto@gbpatent.com

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Application of	:	
KANDO, TATSUYA	:	DECISION ON REQUEST TO
Application No. 11/846,755	:	PARTICIPATE IN PATENT
Filed: Aug. 29, 2007	:	PCT/PROSECUTION HIGHWAY
Attorney Docket No. P31947	:	PROGRAM AND PETITION
For: VIDEO GAME PROCESSING APPARATUS,	:	MAKE SPECIAL UNDER
A METHOD AND A COMPUTER PROGRAM	:	37 CFR 1.102(a)
PRODUCT FOR PROCESSING A VIDEO GAME		

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 March 22, 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 JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO/PCT application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO/PCT application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate; and
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications.

In light of the petition being properly submitted, the request to participate in the PPH program and the petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

The applicant is encouraged to cite and submit all relevant prior art references, if any, to facilitate examination in this application. This application will be forwarded to an examiner for examination.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen at 571-272-4856. All other inquiries concerning the examination or status of the application should be directed to Melba Bumgarner, SPE of Art Unit 3717, and 571-272-4709 for Class 463/31 and also accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

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

Commissioner for Patents
United States Patent and Trademark Office
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WILLIAM J. KOLEGRAFF
3119 TURNBERRY WAY
JAMUL CA 91935

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Bar-Giora Goldberg et al.	:	
Application No. 11/846,764	:	DECISION ON PETITION
Filed: August 29, 2007	:	
Attorney Docket No. AVA-02 C	:	

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 Restriction Requirement mailed June 16, 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 July 17, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election , (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the election and amendment is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3627 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

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

MAILED

OCT 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Yokoyama et al.	:	
Application No. 11/846,784	:	DECISION ON PETITION
Filed: August 29, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 58429US011	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 14, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to a prior-filed nonprovisional application.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
> (2) the surcharge set forth in § 1.17(t); and
> (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application lacks none of the above items.

However, the amendment is not acceptable as drafted since it uses Publication Number "US2005/0093202" rather than the appropriate application number. *See* MPEP 201.11. When a nonprovisional application is entitled under 35 U.S.C. 120 to an earlier U.S. effective filing date, a statement such as, "This is a divisional (or continuation, or continuation-in-part, as appropriate) application of Application No. ---, filed ---" should appear as the first sentence(s) of the specification or in an application data sheet. Any benefit claim that does not <u>both</u> identify a prior application by its application number <u>and</u> specify a relationship between the applications will not be considered to contain a specific reference to a prior application as required by 35 U.S.C. 120.

Accordingly, before a petition under 36 CFR 1.78(a)(3) can be granted, a substitute amendment or ADS correcting this statement, along with a renewed petition under 37 CFR 1.78(a)3 is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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NOV 05 2010

OFFICE OF PETITIONS

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

In re Application of	:
Yokoyama et al.	:
Application No. 11/846,784	: DECISION GRANTING PETITION
Filed: August 29, 2007	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 58429US011	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 28, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed

nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751.

This matter is being referred to Technology Center Art Unit 1743 for appropriate action on the amendment filed October 28, 2010, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

/Liana Walsh/
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
11/846,784	08/29/2007	1743	1000	58429US011	15	2

CONFIRMATION NO. 1070

32692
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

CORRECTED FILING RECEIPT

OC000000044370821

Date Mailed: 11/05/2010

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)

Chikafumi Yokoyama, Zama-shi, JAPAN;
Takaki Sugimoto, Tokyo, JAPAN;

Assignment For Published Patent Application

3M Innovative Properties Company

Power of Attorney: The patent practitioners associated with Customer Number 32692

Domestic Priority data as claimed by applicant

This application is a CON of 10/698,200 10/31/2003 PAT 7,288,013

Foreign Applications

If Required, Foreign Filing License Granted: 09/12/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/846,784**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD OF FORMING MICROSTRUCTURES ON A SUBSTRATE AND A MICROSTRUCTURED ASSEMBLY USED FOR SAME

Preliminary Class

425

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
JUL 08 2011
OFFICE OF PETITIONS

In re Application of Mansoor et al.	:	
Application No. 11/846,804	:	On Application For
Filing Date: August 29, 2007	:	Patent Term Adjustment
Attorney Docket No. IM06467US01	:	

This is in response to the "Application for Patent Term Adjustment under 37 C.F.R. § 1.705(b)" filed June 23, 2011. Applicants submit the correct patent term adjustment to be indicated on the patent is one hundred ninety-one (191) days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the

patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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SENNIGER POWERS LLP
100 NORTH BROADWAY
17TH FLOOR
ST LOUIS MO 63102

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Patent No. 7,866,968 Driver et al. Issue Date: January 11, 2011 Application No. 11/847,018 Filed: August 29, 2007 Attorney Docket No. INSI 4379-US Title: REUSABLE INVERSION SLEEVE ASSEMBLY FOR INVERSION OF CURED IN PLACE LINERS	DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 9, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate the removal of the 120 day reduction. In addition patentees indicate an additional reduction of 3 days is warranted.

The request for review of the patent term adjustment is **GRANTED**.

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 two hundred sixty-nine **(269)** days is **GRANTED.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 324 (259 + 65) days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 135 days.

The period of adjustment under 37 CFR 1.702(a) and the period of adjustment under 37 CFR 1.702(b) overlaps for a total of 65 days (November 8, 2010 to January 11, 2011).

Patentees dispute the 120 day reduction for the submission of the Miscellaneous Letter after the Notice of Allowance on June

10, 2010. Patentees state that the submission of the notification that the patent term indicated on the Notice of Allowance was thought to be longer than appropriate submitted on July 7, 2010 should not result in a reduction of the PTA.

Patentees' argument has been considered and determined to be persuasive. The submission of the request for reconsideration of the patent term is not considered a failure to engage in reasonable efforts to conclude processing or examination of the application. As such the 120 day reduction will be removed.

Patentees informed the Office that an additional reduction of 3 days is warranted.

A review of the record confirms patentees should have been assessed a delay of three (3) days. 37 CFR §1.704(b) provides:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

The PTA is properly reduced by 3 days, the number of days in excess of three months that was taken to reply to the December 11, 2007 Notice to File Missing Parts.

Thus the total reduction for patentees' delay totals 125 (3 + 60 + 62) days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District

Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two hundred sixty-nine (269)** days.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,866,968 B2

DATED : January 11, 2011 **DRAFT**

INVENTOR(S) : Driver 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 152 days

Delete the phrase "by 152 days" and insert – by 269 days--

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Feldman Gale, P.A.
1700 Market Street
Suite 3130
Philadelphia, PA 19103

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APR 11 2011

OFFICE OF PETITIONS

In re Application of	:	
Rao S. Bezwada	:	
Application No. 11/847,042	:	DECISION ON PETITION
Filed: August 29, 2007	:	TO WITHDRAW
Attorney Docket No. 1060.BEZW006U	:	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 31, 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 Feldman Gale, P.A., has been revoked by the assignee of the patent application on April 1, 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: Vance Intellectual Property, PC
5467 Hill Top Street
Crozet, VA 22932-3167

UNITED STATES PATENT AND TRADEMARK OFFICE

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VANCE INTELLECTUAL PROPERTY, PC
5467 HILL TOP STREET
CROZET, VA 22932-3167

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OFFICE OF PETITIONS

In re Application of	:
Rao S. Bezwada	:
Application No. 11/847,042	: DECISION ON PETITION
Filed: August 29, 2007	: TO MAKE SPECIAL UNDER
Attorney Docket No. BEZ-006-US	: 37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 16, 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) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from attorney David H. Vance that inventor Rao S. Bezwada is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

This application file is being referred to Technology Center Art Unit 1619 for further processing in accordance with this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226. All other inquiries concerning the processing of the application should be addressed to the Office of Patent Application Processing at (571) 272-4000.

/Andrea Smith/
Andrea Smith
Petitions Examiner
Office of Petitions

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HOLLAND & HART, LLP
P.O BOX 8749
DENVER CO 80201

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OFFICE OF PETITIONS

In re Application
Erwin C. Hundson et al.
Application No. 11/847,064
Filed: August 29, 2007
Attorney Docket No. **P006.01**
(78120.0019)

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT (PTA) UNDER 35 U.S.C. §154 filed February 13, 2012. Applicant requests that the determination of patent term adjustment be corrected from 143 to 1254 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Kappos, No. 2009-1120 (Jan. 7, 2010).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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.

The Office has updated the PALM and PAIR screen to reflect that the Patent Term Adjustment (PTA) at the time of the mailing of the Notice of Allowance is 664 days. A copy of the updated PALM screen, showing the revised determination, is enclosed.

On January 25, 2012, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application, stating that the patent term adjustment to date was 143 days (173 days of Office delay minus 130 days of applicant delay). The instant application for patent term adjustment was timely filed[2] on or before payment of the issue fee.

Applicants assert that "Based upon the application's filing date and pursuant to 37 CFR §1.703(a)(1), a first action was due from the U.S. Patent Office no later than October 29, 2008. A first non-final Office Action was mailed by the U.S. Patent Office on September 23, 2010. Consequently, the term of the patent is entitled to an adjustment of 694 days."

Applicants' argument is persuasive. The non-Final Office Action mailed September 23, 2010 was the first Office action in the application. As such, the 14 month period for Office delay started on October 29, 2008 and ended on September 23, 2010, and the period of adjustment for Office delay under 37 CFR 1.702(a)(1) is 694 days. The period

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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.

[2] PALM records indicate that the issue fee was paid on February 13, 2012.

of adjustment for Office delay of 143 days will be removed and a period of 694 days will be entered.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is SIX HUNDRED SIXTY-FOUR (664) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney 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*: 11847064 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11847064

Application Filing Date	08/29/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	173
A Delays	173	PTO Manual Adjustment	521
B Delays	0	Applicant Delay (APPL)	30
C Delays	0	Total PTA (days)	664

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
93	02/28/2012		P028	Adjustment of PTA Calculation by PTO		30	0
92	02/28/2012		P028	Adjustment of PTA Calculation by PTO	694		0
91	02/28/2012		P028	Adjustment of PTA Calculation by PTO		143	0
80	01/25/2012		MN/=.	Mail Notice of Allowance			0
79	01/19/2012		OAR	Office Action Review			0
78	01/19/2012		IREV	Issue Revision Completed			0
77	01/19/2012		DVER	Document Verification			0
76	01/19/2012		N/=.	Notice of Allowance Data Verification Completed			0
75	01/12/2012		CNTA	Allowability Notice			0
70	01/05/2012		ABN9	Disposal for a RCE / CPA / R129			0
74	01/04/2012		IDSC	Information Disclosure Statement considered			0
73	01/04/2012		WIDS	Information Disclosure Statement (IDS) Filed			0
72	01/04/2012		LET.	Miscellaneous Incoming Letter			0
71	01/04/2012		RCEX	Request for Continued Examination (RCE)			0
69	01/04/2012		BRCE	Workflow - Request for RCE - Begin			0
68	11/12/2011		FIDC	Finished Initial Data Capture			0
67	10/05/2011		EIDC	Export to Initial Data Capture			0
66	10/04/2011		ELC_RVW	Electronic Review			0
65	10/04/2011		EML_NTF	Email Notification			0
64	10/04/2011		MN/=.	Mail Notice of Allowance			0
63	09/29/2011		OAR	Office Action Review			0
62	09/29/2011		IREV	Issue Revision Completed			0
61	09/29/2011		DVER	Document Verification			0
58	09/28/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
60	09/27/2011		N/=.	Notice of Allowance Data Verification Completed			0
59	09/27/2011		CNTA	Allowability Notice			0
57	09/23/2011		OAR	Office Action Review			0
56	09/23/2011		OAR	Office Action Review			0
53	09/19/2011		EML_NTR	Email Notification			0
52	09/19/2011		PA..	Change in Power of Attorney (May Include Associate POA)			0
55	09/16/2011		EXIA	Interview Summary- Applicant Initiated			0
54	09/16/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
51	09/14/2011		C.AD	Correspondence Address Change			0
50	07/26/2011		FWDX	Date Forwarded to Examiner			0
49	07/15/2011	06/15/2011	A...	Response after Non-Final Action		30	47
48	07/15/2011		XT/G	Request for Extension of Time - Granted			0
47	03/15/2011		MCTNF	Mail Non-Final Rejection			0
46	03/14/2011		CTNF	Non-Final Rejection			0
45	01/08/2011		FWDX	Date Forwarded to Examiner			0
43	01/03/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
44	12/21/2010		A...	Response after Non-Final Action			0
42	12/21/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
41	09/23/2010	04/03/2010	MCTNF	Mail Non-Final Rejection	173		27
40	09/21/2010		CTNF	Non-Final Rejection			0
30	07/20/2010		C.ADB	Correspondence Address Change			0
29	06/15/2010		DOCK	Case Docketed to Examiner in GAU			0
28	06/02/2010		DOCK	Case Docketed to Examiner in GAU			0
27	12/03/2009		FEE.	Fee Payment Recorded (fees filed separately e.g. not with original papers, etc).			0
26	11/24/2009		MNFEE	Mail Notice of Required Fees Due			0
25	11/23/2009		NFEE	Fee (additional) Due Notice			0
24	10/13/2009		A.PE	Preliminary Amendment			0
23	04/28/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
22	04/23/2009		C.AD	Correspondence Address Change			0
35	08/21/2008		IDSC	Information Disclosure Statement considered			0
21	08/21/2008		RCAP	Reference capture on IDS			0

20	08/21/2008	M844	Information Disclosure Statement (IDS) Filed	0
19	08/21/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
18	05/19/2008	DOCK	Case Docketed to Examiner in GAU	0
34	04/07/2008	IDSC	Information Disclosure Statement considered	0
17	04/07/2008	RCAP	Reference capture on IDS	0
16	04/07/2008	M844	Information Disclosure Statement (IDS) Filed	0
15	04/07/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
12	03/10/2008	DOCK	Case Docketed to Examiner in GAU	0
11	03/07/2008	EML_NTR	Email Notification	0
10	03/06/2008	PG-ISSUE	PG-Pub Issue Notification	0
33	02/28/2008	IDSC	Information Disclosure Statement considered	0
14	02/28/2008	RCAP	Reference capture on IDS	0
13	02/28/2008	M844	Information Disclosure Statement (IDS) Filed	0
9	02/28/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
8	02/04/2008	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
7	12/03/2007	OIPE	Application Dispatched from OIPE	0
5	09/11/2007	COMP	Application Is Now Complete	0
6	09/10/2007	PGPC	Sent to Classification Contractor	0
4	09/01/2007	L128	Cleared by L&R (LARS)	0
3	08/31/2007	L198	Referred to Level 2 (LARS) by OIPE CSR	0
2	08/30/2007	SCAN	IFW Scan & PACR Auto Security Review	0
1	08/29/2007	IEXX	Initial Exam Team nn	0
0.5	08/29/2007	EFILE	Filing date	0

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PATENT DEPT - INTUITIVE SURGICAL OPERATIONS
1266 KIFER RD BLDG 101
SUNNYVALE CA 94086

MAILED
SEP 15 2011
OFFICE OF PETITIONS

In re Application of	:	
PRISCO et al.	:	
Application No. 11/847,168	:	DECISION DISMISSING PETITIONS
Filed: 08/29/2007	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. ISRG00800/US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed September 7, 2011, to accept an unintentionally delayed claim under 35 U.S.C. 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the amendment filed September 6, 2011.

The petition is DISMISSED

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The amendment is not acceptable as drafted because it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. 132(a)). If an incorporation by reference statement is included in an

amendment to the specification to add a benefit claim after the filing date of the application, the amendment would not be proper. When a benefit claim is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application unless an incorporation by reference statement of the prior application was presented upon filing of the application. See Dart Indus. v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980); MPEP 201.06(c)(IV), 201.00(III)(f), and 608.04(b).

Before the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either a Supplemental Application Data Sheet (ADS) or amendment, without the incorporation by reference statement, are required. No additional petition fee is required. The Office notes that 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in an application must be signed by an appropriate party. Therefore, an ADS, supplemental ADS, or an amendment submitted after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

Further correspondence with respect to this matter should be addressed as follows:

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401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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PATENT DEPT - INTUITIVE SURGICAL OPERATIONS
1266 KIFER RD BLDG 101
SUNNYVALE CA 94086

MAILED
OCT 06 2011
OFFICE OF PETITIONS

In re Application of	:	
PRISCO et al.	:	
Application No. 11/847,168	:	DECISION DISMISSING PETITION
Filed: 08/29/2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ISRG00800/US	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed September 28, 2011, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of prior-filed nonprovisional Application No. 11/074,372 set forth in the concurrently filed Supplemental Application Data Sheet.

The petition is DISMISSED

A petition for acceptance of an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of prior-filed nonprovisional applications pursuant to 37 CFR 1.78(a)(3) is applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The Supplement Application Data Sheet (supplemental ADS) filed September 28, 2011, is unacceptable, and therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the supplemental ADS was not signed by an appropriate party pursuant to 37 CFR 1.33(b). The Office indicated in the previous decision, mailed September 15, 2011, that an ADS, supplemental ADS, or an amendment submitted on renewed petition must be signed in accordance with 37 CFR 1.33(b).

Furthermore, the Supplemental ADS filed September 28, 2011, contains a claim under 35 U.S.C. 120 for the benefit of only one prior-filed application, Application No. 11/074,372 filed March 7, 2005. As stated in MPEP 201.11(III)(C),

> If applicant wishes that the pending application have the benefit of the filing date of the first filed application, applicant must, besides making reference to the intermediate application, also make reference to the first application. See Sticker Indus. Supply Corp. v. Blaw- Knox Co., 405 F.2d 90, 160 USPQ 177 (7th Cir. 1968) and Hovlid v. Asari, 305 F.2d 747, 134 USPQ 162 (9th Cir. 1962). The reference to the prior applications must identify all of the prior applications and indicate the relationship (i.e., continuation, divisional, or continuation-in-part) between each nonprovisional application in order to establish copendency throughout the entire chain of prior applications. Appropriate references must be made in each intermediate application in the chain of prior applications. If an applicant desires, for example, the following benefit claim: 'this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---,' then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A.

Any renewed petition under 37 CFR 1.78 must be accompanied by a signed Supplemental Application Data Sheet or a signed amendment to the first line of the specification correcting any deficiencies. Applicants should review the benefit claim submitted on renewed petition to ensure that appropriate references are made to the first application and each intermediate application in the chain of prior applications. No additional petition fee is required for filing a renewed petition in this application.

Further correspondence with respect to this matter should be addressed as follows:

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Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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PATENT DEPT - INTUITIVE SURGICAL OPERATIONS
1266 KIFER RD BLDG 101
SUNNYVALE CA 94086

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NOV 14 2011

OFFICE OF PETITIONS

In re Application of	:	
PRISCO et al.	:	
Application No. 11/847,168	:	DECISION GRANTING PETITION
Filed: 08/29/2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ISRG00800/US	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed November 2, 2011, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of prior-filed nonprovisional Application No. 11/074,372 set forth in the concurrently filed Second Supplemental Application Data Sheet.

The petition is granted.

A petition for acceptance of an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of prior-filed nonprovisional applications pursuant to 37 CFR 1.78(a)(3) is applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the benefit claim under 35 U.S.C. 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the benefit claim to the prior-filed nonprovisional application, accompanies this decision on petition.

This application is being referred to Technology Center Art Unit 3664 for consideration by the examiner of applicant's entitlement to claim benefit under 35 U.S.C. 120 to the prior-filed application.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/847,168	08/29/2007	3664	2110	ISRG00800/US	39	2

CONFIRMATION NO. 1673

CORRECTED FILING RECEIPT

51947
PATENT DEPT - INTUITIVE SURGICAL OPERATIONS
1266 KIFER RD BLDG 101
SUNNYVALE, CA 94086

OC000000050930586

Date Mailed: 11/14/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Giuseppe Prisco, Mt. View, CA;
Hubert Stein, San Francisco, CA;
Paul Millman, San Jose, CA;
David Bailey, Redwood City, CA;
William Nowlin, Los Altos, CA;
Michael Ikeda, San Jose, CA;
Gregory K. Toth, Mountain View, CA;
Thomas Nixon, Santa Clara, CA;

Assignment For Published Patent Application

Intuitive Surgical INC., Sunnyvale, CA

Power of Attorney: The patent practitioners associated with Customer Number 51947

Domestic Priority data as claimed by applicant

This application is a CIP of 11/074,372 03/07/2005 PAT 7,373,219
which is a CON of 10/437,771 05/13/2003 PAT 6,879,880
which is a DIV of 09/544,153 04/06/2000 PAT 6,594,552
which claims benefit of 60/128,157 04/07/1999

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: 09/10/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/847,168**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

MEDICAL ROBOTIC SYSTEM WITH DYNAMICALLY ADJUSTABLE SLAVE MANIPULATOR CHARACTERISTICS

Preliminary Class

700

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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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).

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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LADAS & PARRY
5670 WILSHIRE BOULEVARD, SUITE 2100
LOS ANGELES CA 90036-5679

MAILED
OCT 26 2010
PCT LEGAL ADMINISTRATION

In re Application of
HIGUCHI, Masao, et al.
Application No. 11/847,210
Filed: 29 August 2007
Attorney Docket No. B-6316PCT 624435-1

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 23 August 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed international application.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Item (1) has not been satisfied.

Applicants argue that this application should proceed as a filing under 35 USC 371 and that the current application data sheet sets forth that relationship, despite their having identified the application as a filing under 35 USC 111(a). As set forth in the MPEP, "if there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a)." MPEP 1893.03(a). This application is a filing under 35 USC 111(a), not 35 USC 371. A proper claim of benefit under 35 USC 120 must correctly identify the relationship between this application and the international application.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment to correct the above matter 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.

Any inquiries concerning this decision may be directed to the Erin Thomson at (571) 272-3292.

/Boris Milef/

Boris Milef
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

JAN 26 2011

PCT LEGAL ADMINISTRATION

LADAS & PARRY
5670 WILSHIRE BOULEVARD, SUITE 2100
LOS ANGELES CA 90036-5679

In re Application of	:
HIGUCHI, Masao, et al.	:
Application No. 11/847,210	: DECISION ON PETITION
Filed: 29 August 2007	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. B-6316PCT 624435-1	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 23 November 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed international application.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed international application has been included in an application data sheet, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 USC 365(c) and 35 U.S.C. § 120 to the prior-filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed 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, that a 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. 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 questions concerning this matter may be directed to Erin Thomson at (571) 272-3292. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2121 for appropriate action, including consideration by the examiner of the claim for benefit of the prior-filed application.

/Boris Milef/

Boris Milef
Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

John E. Curtin
P.O. Box 1995
Vienna, Virginia 22183

MAILED
AUG 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,813,287	:	
Issued: October 12, 2010	: LETTER	
Application No. 11/847,301	:	
Filed: August 29, 2007	:	
For: 800769 (WJT002-0067)	:	

This letter is in response to the petition under 37 CFR 1.47(a) filed December 13, 2010.

The above-identified application was filed August 29, 2007 and matured into U.S. Patent No. 7,813,287 on October 12, 2010.

The provisions of 37 CFR 1.47 are not applicable to applications which have issued as a patent. Further, the provisions of 37 CFR 1.47 are not applicable to matters concerning unsigned assignment documents.

Further, 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, practitioner's signature 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 practitioner 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 practitioner, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this patent file will be directed solely to the correspondence address of record.

Telephone inquiries related to this decision 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED

AUG 31 2011

OFFICE OF PETITIONS

DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

In re Application of :
Michael John REKOSKE et al. : ON PETITION
Application No. 11/847,440 :
Filed: August 30, 2007 :
Atty. Docket No.: KCX-1351 (64343777US01)

This is a decision on the petition under 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 an appeal brief (and appeal brief fee) following the filing of an appeal on December 8, 2010. The application thus became abandoned February 9, 2011. A Notice of Abandonment was mailed August 2, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a Request for Continued Examination (RCE), RCE fee, and submission required under 37 CFR 1.114, (2) a petition fee of $1620, and (3) a statement of unintentional delay. The RCE and RCE fee are accepted as having been unintentionally delayed.

Telephone inquires regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application will be referred to Technology Center Art Unit 1741 for consideration of the filed reply.

Ramesh 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
www.uspto.gov

SNR DENTON US LLP
P.O. BOX 061080
CHICAGO IL 60606-1080

MAILED

FEB 17 2011

OFFICE OF PETITIONS

In re Application of	:	
Le Quesne	:	
Application No. 11/847,570	:	DECISION ON PETITION
Filed: August 30, 2007	:	
Attorney Docket No. 20000609-0003	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 12, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 9, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on September 10, 2010. A Notice of Abandonment was mailed January 4, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555.00, three- month extension of time fee submitted with the petition on January 12, 2011 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.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Technology Center AU 2628 for further appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Richard Lockard
The Big Space Ltd. Palladium House
1-4 Argyll Street London
W1F7LD United Kingdom

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120323

DATE : March 23, 2012

TO SPE OF : ART UNIT 3721

SUBJECT : Request for Certificate of Correction on Patent No.: 7,591,124

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: /Rinaldi I. Rada/ **Art Unit** 3721

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 03/24/11

DATE : 3/21/11

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction for Appl. No.: 11847749 Patent No.: 7564737

CofC mailroom date: 03/18/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
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: approved SD 3/24/11

RICHARD T. ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

3/29/11 **SPE**

2824 **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/21/11

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction for Appl. No.: 11847749 Patent No.: 7564737

CofC mailroom date: 03/18/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
Fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

xApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: approved SD 032411

/Richard Elms/ SPE AU 2824 3/24/11

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20110509

DATE : 3/21/11

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/847749 Patent No.: 7,564,737

CofC mailroom date: 4/19/11

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.

xApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: Correction approved for SD 5/9/11

RICHARD T. ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800
5/9/11
SPE

2824
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/20/11

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/847,894 Patent No.: RE42473

CofC mailroom date: 09/09/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

RoChaun Hardwick
Certificates of Correction Branch
703-756-1580

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ **SPE** _____ **Art Unit**

Hardwick, Rochaun

From: Zimmerman, Mark
Sent: Tuesday, September 20, 2011 4:31 PM
To: Hardwick, Rochaun
Cc: Lee, Tommy (AU 2624)
Subject: FW: SPE's Response for IFW 11/847,894 RE42473
Attachments: SPE's Reponse 3 01-13-2006 for IFW docs (2) (3) (2) (4) (2) (3) (2).doc

Approved. See attached form.

From: Moore, David
Sent: Tuesday, September 20, 2011 10:15 AM
To: Zimmerman, Mark
Subject: FW: SPE's Response for IFW 11/847,894 RE42473

From: Hardwick, Rochaun
Sent: Tuesday, September 20, 2011 8:18 AM
To: Lee, Tommy (AU 2624)
Cc: Moore, David
Subject: SPE's Response for IFW 11/847,894 RE42473

Please review the attached PTOL 306 form requesting approval or denial of the C of C dated 09/09/11 requesting to make a changes to the patent. Please respond by approving or denying and signing the PTOL 306, and have it scanned into e-Dan as COCOX or e-mail the completed PTOL 306 form back to me and I will have it scanned. You may also fax the completed form to 571 270-9754.

Your immediate attention is greatly appreciated.

Thank you,

RoChaun Hardwick
Certificate of Correction
571 272-0470

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

OCT 29 2010

OFFICE OF PETITIONS

In re Application of :
Van Rooyen :
Application No. 11/847,905 : ON APPLICATION FOR
Filed: August 30, 2007 : PATENT TERM ADJUSTMENT
Atty Docket No. **16336US02**

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DTERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 USC 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)", filed October 13, 2010, which is properly treated under 37 C.F.R. § 1.705(b). Applicants submit that the patent term adjustment to be indicated on the patent is seven hundred and seventy (770) days, not five hundred and forty-five (545) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office is in receipt of the 200.00 for the 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).

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office 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 (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02-17-11

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/848089 Patent No.: 7737174

CofC mailroom date: 02-08-11

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

Angela Green
Certificates of Correction Branch
(703) 756-1541

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **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
TECHNOLOGY CENTER 1600

SPE **Art Unit** 1626

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : July 14,2011

In re Application of :

Kenneth Largman

Application No : 11848097

Filed: 30-Aug-2007

Attorney Docket No : 60982-8011.US01

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR.§ 1.36(b), filed July 14,2011

The request is **APPROVED**

The request was signed by R. Michael Ananian (registration no. 35050) on behalf of all the attorneys/agents of record. All attorneys/agents of record have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 with correspondence address:

Name	Vir2us, Inc.
Name2	
Address 1	755 Baywood Drive, 2nd Floor
Address 2	
City	Petaluma
State	CA
Postal Code	94954
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	11848097
Filing Date	30-Aug-2007
First Named Inventor	Kenneth Largman
Art Unit	2491
Examiner Name	GARY GRACIA
Attorney Docket Number	60982-8011.US01
Title	NETWORK COMPUTER SYSTEM AND METHOD USING THIN USER CLIENT AND VIRTUAL MACHINE TO PROVIDE IMMUNITY TO HACKING, VIRUSES AND SPY WARE

◉ Please withdraw me as attorney or agent for the above identified patent application and all the practitioners of record.

The reason(s) for this request are those described in 37 CFR:

10.40(c)(1)(iv)

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	Vir2us, Inc.
Address	755 Baywood Drive, 2nd Floor
City	Petaluma
State	CA
Postal Code	94954

Country	US
I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/R. Michael Ananian/
Name	R. Michael Ananian
Registration Number	35050

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : July 14,2011

In re Application of :

Kenneth Largman

Application No : 11848109

Filed: 30-Aug-2007

Attorney Docket No : 60982-8017.US01

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR.§ 1.36(b), filed July 14,2011

The request is **APPROVED**

The request was signed by R. Michael Ananian (registration no. 35050) on behalf of all the attorneys/agents of record. All attorneys/agents of record have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 with correspondence address:

Name	Vir2us, Inc.
Name2	
Address 1	755 Baywood Drive, 2nd Floor
Address 2	
City	Petaluma
State	CA
Postal Code	94954
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	11848109
Filing Date	30-Aug-2007
First Named Inventor	Kenneth Largman
Art Unit	2628
Examiner Name	TIZE MA
Attorney Docket Number	60982-8017.US01
Title	System and Device Architecture For Single-Chip Multi-Core Processor Having On-Board Display Aggregator and I/O Device Selector Control

◉ Please withdraw me as attorney or agent for the above identified patent application and all the practitioners of record.

The reason(s) for this request are those described in 37 CFR:

10.40(c)(1)(iv)

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	Vir2us, Inc.
Address	755 Baywood Drive, 2nd Floor
City	Petaluma
State	CA
Postal Code	94954

Country	US
I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/R. Michael Ananian/
Name	R. Michael Ananian
Registration Number	35050

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOKYO ELECTRON U.S. HOLDINGS, INC.
4350 WEST CHANDLER BLVD.
SUITE 10/11
CHANDLER AZ 85226

MAILED
NOV 04 2010
OFFICE OF PETITIONS

In re Application of	:	
Wei LIU et al.	:	
Application No. 11/848,154	:	DECISION ON PETITION
Filed: August 30, 2007	:	
Attorney Docket No. **TTI-181**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant amendment (Notice) mailed, November 05, 2009, which set a shortened statutory 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 application became abandoned on December 06, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2863 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
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
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: TI-35961.3	Patent Number: 7,662,688
Filing Date (or 371(b) or (f) Date): 08-30-2007	Issue Date: 02/16/2010
First Named Inventor: Kayvan Sadra	
Title: APPLICATION OF DIFFERENT ISOLATION SCHEMES FOR LOGIC AND EMBEDDED MEMORY	

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 / Wade J. Brady III /	Date August 2, 2010
Name (Print/Typed) Wade J. Brady III	Registration Number 32,080

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 09/02/2010

Applicant	: Kayvan Sadra	: DECISION ON REQUEST FOR
Patent Number	: 7662688	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/848,187	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/30/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **182** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LEVINE BAGADE HAN LLP
2400 GENG ROAD, SUITE 120
PALO ALTO CA 94303

MAILED

SEP 08 2011

OFFICE OF PETITIONS

In re Application of	:
Saadat et al.	:
Application No. 11/848,202	: DECISION ON PETITION
Filed: August 30, 2007	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. VYMDNZ00900	:

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed September 1, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the

> same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

As petitioner points out, Application No. 11/259,498 was previously incorporated by reference upon filing in paragraph [0019] of the specification. However, provisional Application No. 60/649,246 was not and therefore cannot be incorporated by reference.

Accordingly, before the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement in reference to the provisional application, along with a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), is required. No further petition fee is necessary.

Further, although the required unintentional delay statement contained in the instant petition only references 37 CFR 1.78(a)(2), it is being construed to mean both 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(5). If this interpretation is incorrect, please notify the Office.

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

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[1] *Note* 37 CFR 1.121

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LEVINE BAGADE HAN LLP
2400 GENG ROAD, SUITE 120
PALO ALTO CA 94303

MAILED
DEC 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Saadat et al.	:	
Application No. 11/848,202	:	DECISION GRANTING PETITION
Filed: August 30, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. VYMDNZ00900	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed December 6, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional Application No. 11/259,498, filed October 25, 2005, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications 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 applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 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 instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 3779 for appropriate action on the amendment filed December 6, 2011, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, 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
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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
11/848,202	08/30/2007	3779	641	VYMDNZ00900	25	3

CONFIRMATION NO. 3373

CORRECTED FILING RECEIPT

40518
LEVINE BAGADE HAN LLP
2400 GENG ROAD, SUITE 120
PALO ALTO, CA 94303

OC000000051496640

Date Mailed: 12/15/2011

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)

Vahid Saadat, Saratoga, CA;
Chris A. Rothe, San Mateo, CA;
Edmund A. Tam, Mountain View, CA;
Ruey-Feng Peh, Mountain View, CA;

Assignment For Published Patent Application

Voyage Medical, Inc., Campbell, CA

Power of Attorney: The patent practitioners associated with Customer Number 40518

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/824,418 09/01/2006
and claims benefit of 60/824,423 09/01/2006
and is a CIP of 11/259,498 10/25/2005 PAT 7860555

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: 09/13/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/848,202**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

TISSUE VISUALIZATION DEVICE AND METHOD VARIATIONS

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120403

DATE : October 27, 2010

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction on Patent No.: 7649532

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:

/Ulka Chauhan/
Supervisory Patent Examiner, Art Unit 2628

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Agilent Technologies, Inc. in care of:
CPA Global
P. O. Box 52050
Minneapolis MN 55402

MAILED
DEC 05 2011
OFFICE OF PETITIONS

In re Patent No. 8,003,952 :
Issue Date: August 23, 2011 :
Application No. 11/848,226 :
Filed: August 30, 2007 :
Attorney Docket No. 20100059-03 :

DECISION ON PETITION
UNDER 37 CFR 3.81

This is a decision on the Petition to Correct Assignee Address, filed November 22, 2011, and the Request to Correct the Assignee under 37 CFR 3.81(b), filed November 28, 2011, each requesting that the Title Page of the subject patent be corrected, via a Certificate of Correction under 37 CFR 1.323, to identify the correct address of the assignee. The Petition and Request has been treated together as a petition under 37 CFR 3.81. A completed Certificate of Correction form (PTO/SB/44) was previously submitted on September 6, 2011.

The petition under 37 CFR 3.81 is **DISMISSED**.

Petitioner requests that the Title Page of the above-identified patent be corrected, via the issuance of a Certificate of Correction, to correct the address of the assignee identified thereon from "Leveland, CO (US)" to --Santa Clara, CA (US)--. In effect, Petitioner requests that the assignee information identified on the Title Page of the patent be changed from "Agilent Technologies, Inc., Leveland, CO (US)" to:

--Agilent Technologies, Inc., Santa Clara, CA (US)--.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under in 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 paid.

A review of United States Patent and Trademark Office (USPTO) records and documents submitted with the petition reveals that the address of the assignee is, in fact, "Loveland, CO (US)" and not Santa Clara, CA. On this basis, the present petition must be dismissed.

Notwithstanding the above, the evidence does appear to suggest that the address of the assignee identified on the Title Page of the subject patent should actually be changed from "Leveland, CO (US)" to --Loveland, CO (US)--. However, no petition and Certificate of Correction requesting such correction has been submitted.

Inquiries related to this communication should be directed to Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Yiping Ding et al.	:	
Application No. 11/848,298	:	DECISION ON PETITION
Filed: August 31, 2007	:	TO WITHDRAW
Attorney Docket No. **149-0192US**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed May 16, 2011.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 29855 has been revoked by the applicants of the patent application on May 23, 2011. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Brake Hughes Bellermann LLP
c/o CPA Global
P.O. Box 52050
Minneapolis MN 55402

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 11/30/2011
Patent No.	: 7,899,652 B2
Serial No.	: 11/848,324
Inventor(s)	: Lu et al.
Issue Date	: March 1, 2011
Title	: **LINEAR PROGRAMMING SUPPORT VECTOR REGRESSION WITH WAVELET KERNEL**
./File No.	: **TTC-45802/08**

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 alleged errors is/are printed in accordance with the record as shown in the specification dated 8/31/10, since they are typographical/gramatical in nature by the applicant, a c of c fee of is required. In veiw of the foregoing, your request is denied and will not be processed at this time, until a valid account number along with authorization to charge the required c of c fee of 100.00.

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and 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

GIFFORD, KRASS, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
P.O. BOX 7021
TROY MI 48007-7021

ECW

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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MAILED
APR 22 2011
OFFICE OF PETITIONS

KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of	:	
Christopher Huynh et al.	:	
Application No. 11/848,331	:	DECISION ON PETITION
Filed: August 31, 2007	:	TO WITHDRAW
Attorney Docket No.: 019635-000212US	:	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 28, 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 Brad J. Loos on behalf of all the attorneys/agents associated with Customer Number 20350.

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 correspondence address provided is not the intervening assignee of the entire interest or the first named inventor.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-3210. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

MAR 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Bujold et al.	:	
Application No. 11/848,366	:	ON APPLICATION FOR
Filed: August 31, 2007	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
20198US01	:	

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)," filed on January 21, 2011, which is treated as a petition under 37 CFR 1.705(b). Applicants submit that the patent term adjustment to be indicated on the patent should be increased from 526 days to 778 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue the patent.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office

can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
AUG 09 2011
OFFICE OF PETITIONS

In re Patent No. 7,924,292	: DECISION ON REQUEST
Bujold et al.	: FOR
Issue Date: 04/12/2011	: RECONSIDERATION OF
Application No. 11/848,366	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 08/31/2007	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
20198US01	: CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) INDICATED IN THE PATENT (37 CFR § 1.705(d)), filed on June 10, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred fifty (750) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred fifty (750) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred fifty (750)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,924,292 B2

DATED : **Apr. 12, 2011** **DRAFT**

INVENTOR(S) : Bujold 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 668 days.

Delete the phrase "by 668 days" and insert – by 750 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/848,451	08/31/2007	Aaron Brunstetter	PA3725US	3824

22830 7590 02/01/2011
CARR & FERRELL LLP
120 CONSTITUTION DRIVE
MENLO PARK, CA 94025

EXAMINER
JONES, MARCUS D

ART UNIT	PAPER NUMBER
3717	

MAIL DATE	DELIVERY MODE
02/01/2011	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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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CARR & FERRELL LLP
120 CONSTITUTION DRIVE
MENLO PARK CA 94025

In re Application of:
BRUNSTETTER, AARON et al
Serial No. 11/848,451
Filed: August 31, 2007
Docket: PA3725US
Title: VIDEO GAME RECORDING AND PLAYBACK WITH VISUAL DISPLAY OF GAME CONTROLLER MANIPULATION

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a decision on the petition and request under 37 CFR 1.59(b), filed January 28, 2011 to expunge information from the above identified application. The petition fee of $200.00 set forth in 37 CFR 1.17(g) was paid.

In the petition, the petitioner states that a Non-patent literature document filed on January 25, 2011 was filed unintentionally. Petitioner requests removal of the erroneously filed Non-patent literature (a total of 50 pages).

The petition is **granted**.

The USPTO does not remove any papers filed in an application. However, since the applicant has unintentionally filed the wrong documents on January 25, 2011, the documents have been blocked from public view in the Public Pair system.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED

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
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SNELL & WILMER L.L.P.
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX, AZ 85004-2202

MAILED
JUN 03 2011
OFFICE OF PETITIONS

In re Application of Tsai et al. :
Application No. 11/848,458 : Decision on Petition
Filing Date: August 31, 2007 :
Attorney Docket No. 39524.0092 :

This is a decision on the petition filed March 28, 2011, which requests revival of the application under 37 CFR 1.137(a), or in the alternative, under 37 CFR 1.137(b).

The petition under 37 CFR 1.137(a) is **dismissed**.

The petition under 37 CFR 1.137(b) is **granted**.

Facts

The Office mailed a non-final Office action on December 3, 2009.

An amendment was filed March 1, 2010.

The Office mailed a Notice of Non-Compliant Amendment on April 5, 2010. The notice set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). The Office did not receive a reply to the notice and an extension of time was not obtained under the provisions of 37 CFR 1.136(a). Accordingly, the above-identified application became abandoned on May 6, 2010. A Notice of Abandonment was mailed on November 3, 2010.

The instant petition was filed March 28, 2011. The petition asserts the April 5, 2010 Office action was never received. The petition states mail from the USPTO received at the address of record is directed to a docketing group for review and tracking. The petition includes a copy of a docket report pertaining solely to the instant application. The docket report identifies correspondence received from the USPTO and correspondence sent to the USPTO.

The petition asks for relief under 37 CFR 1.137(a), or in the alternative, under 37 CFR 1.137(b).

The Petition Under 37 CFR 1.137(a)

35 U.S.C. 133 states,

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

"[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."[1] In order for a party to prove unavoidable delay, the Office requires the party demonstrate the party exercised the "care or diligence tha[t] is generally used and observed by prudent and careful men in relation to their most important business."[2]

In general, evidence establishing non-receipt of an Office action will be sufficient to demonstrate a failure to respond to the Office action was unavoidable. Unfortunately, the record is insufficient to demonstrate non-receipt of the April 5, 2010 Office action.

MPEP 711.03(c)(I)(A) states,

> 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,

[1] *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] *In re Mattulath*, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912). *See also Ray v. Lehman*, 55 F.3d 606, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citations omitted) ("[I]n determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person.")

> 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).

Pursuant to the quoted language above, in order for a party to establish non-receipt of an Office action, the party must:

1. State a search of all records for the application, including the file jacket or an equivalent, indicates the Office action was not received, and
2. Provide a copy of relevant portions of a master docket or state such a docket does not exist.

The petition fails to indicate a search of any records, other than the docket record for the instant application, has been performed. The petition also does not include a copy of relevant portions of a master docket or state such a docket does not exist. Therefore, the showing of record is insufficient to demonstrate non-receipt of the notice.

Although the record fails to prove non-receipt of the notice, the petition under 37 CFR 1.137(a) might well be grantable *if* the record demonstrated the law firm's reliance on the system and personnel responsible for handling correspondence from the USPTO was consistent with the level of care generally exercised by reasonable and prudent individuals when handling their most important business. Unfortunately, the current showing of record fails to fully discuss how mail is handled at the address or discuss the employees who implement the process. For example, the record does not discuss the qualifications of any of the employees relied upon to properly implement the process.

In view of the prior discussion, the record fails to prove the entire delay in the submission of a reply to the April 5, 2010 notice was unavoidable and the petition under 37 CFR 1.137(a) must be dismissed.

<u>The Petition Under 37 CFR 1.137(b)</u>

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 all the requirements of 37 CFR 1.137(b).

As to item (1), the petition includes a reply in the form of a new amendment.

As to item (2), the petition fee of $1,620 has been charged to Deposit Account No. 19-2814.

As to item (3), the petition includes the required statement of unintentional delay.

As to item (4), a terminal disclaimer is unnecessary because the application is a non-design application filed after June 8, 1995.

The petition is granted and the application is hereby revived.

Technology Center Art Unit 2891 will be informed of the instant decision and the application, including the amendment filed March 28, 2011, will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND CREW LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO CA 94111

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Antoo et al.	:	
Application No. 11/848,475	:	DECISION ON PETITION
Filed: August 31, 2007	:	
Attorney Docket No. 16222U-035400US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed November 13, 2009. A three-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, this application became abandoned on May 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00 and the submission required by 37 CFR 1.114 (previously filed May 10, 2010); (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Further, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center 3621 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed May 10, 2010.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 03/26/12

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 11848527 Patent No.: 7787849

CofC mailroom date: 03/19/12

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 – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: **Should the changes in the claims be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

X **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

/Nay A. Maung/ — 2618

SPE — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED
NOV 08 2011
OFFICE OF PETITIONS

Jones Day (RIM) - 2N
North Point
901 Lakeside Avenue
Cleveland OH 44114

In re Application of	:	
Michael MAGUIRE	:	ON PETITION
Application No. 11/848,531	:	
Filed: August 31, 2007	:	
Atty. Docket No.: 555255-012969		

This is in response to the petition under 37 CFR 1.47(a), filed October 12, 2011, which is being treated as a petition under 37 CFR 1.183 requesting waiver of the requirements of 37 CFR 1.131.

The petition is **GRANTED.**

Petitions under 37 CFR 1.47 are only applicable to the initial execution of an original oath or declaration by a given inventor and are not applicable to the reexecution of another or supplemental oath or declaration by that originally signing inventor. Petitioner has shown that the inability to again obtain the signature from the originally signing inventor Mr. Michael Maguire is, not withstanding the exercise of reasonable care and diligence, due to circumstances beyond his control.

As the instant petition is being treated as a petition under 37 CFR 1.183, the petition fee of $400 set forth in 37 CFR 1.17(f) is required. Petitioner has already paid $200 for consideration of the instant petition. Accordingly, an additional $200 will be charged to petitioner's deposit account 501432.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

Rajnesh Krishnamurthy
for Anthony Knight
Director
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/2/10 Paper No.: ____

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/848540 Patent No.: 7690062 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Nicole Blan 9-22-10

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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AKA CHAN LLP / ORACLE
900 LAFAYETTE STREET
SUITE 710
SANTA CLARA CA 95050

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Jason Aron Alonzo et al.	:	
Application No. 11/848,588	:	DECISION ON PETITION
Filed: August 31, 2007	:	TO WITHDRAW
Attorney Docket No. ORACP041	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 24, 2010.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has ownership in this application, then a current Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be provided with a renewed request.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TUNG & ASSOCIATES / RANDY W. TUNG, ESQ.
838 W. LONG LAKE ROAD
SUITE 120
BLOOMFIELD HILLS MI 48302

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of	:	
John A. BAUMANN et al.	:	
Application No. 11/848,695	:	DECISION ON PETITION
Filed: August 31, 2007	:	
Attorney Docket No. 06-0878A (82,000-063P)	:	

This is a decision on the petition, filed April 29 2011, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is DISMISSED.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

Petitioner asserts that the issue fee payment was submitted in the Office on March 08, 2011, which included an authorization to charge petitioners deposit account.

The Office acknowledges the receipt of the documents on March 08, 2011, however no deposit account number was provided. Therefore the petition can not be granted.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), $810.00 for a small entity or $1,620.00 for a large entity,

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

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TUNG & ASSOCIATES / RANDY W. TUNG, ESQ.
838 W. LONG LAKE ROAD
SUITE 120
BLOOMFIELD HILLS MI 48302

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Application of	:	
John A. BAUMANN	:	
Application No. 11/848,695	:	DECISION ON PETITION
Filed: August 31, 2007	:	
Attorney Docket No. 06-0878A (82,000-063P)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 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 March 28, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed December 28, 2010. Accordingly, the date of abandonment of this application is March 29, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and the publication fee of $300.00 previously paid December 21, 2010, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments 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 the Office of Data Management for processing into a patent.

Michelle R. Eason
Paralegal Specialist
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.
11/848,707	08/31/2007	Alfred M. Bourell JR.	2545600-000116	4249

49841 7590 02/15/2011
BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ, PC
265 Brookview Centre Way
Suite 200
KNOXVILLE, TN 37919

EXAMINER
HAMO, PATRICK

ART UNIT	PAPER NUMBER
3746	

MAIL DATE	DELIVERY MODE
02/15/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ,
265 Brookview Centre Way
Suite 200
KNOXVILLE TN 37919

In re Application of	:	
BOURELL, ALFRED M. JR. et al	:	DECISION ON PETITION
Appl. No.: 11/848,707	:	UNDER 37 CFR 1.59
Attorney's Docket No. 2545600-000116	:	
Filed: Aug. 31, 2007	:	
For: SOLID STATE SUMP PUMP CONTROL	:	
	:	
	:	

This is a decision on the petition under 37 CFR 1.59(b), filed Oct. 27, 2007 to expunge information from the above identified application. The petition fee set forth in 37 CFR 1.17(g) has not been paid.

The petition is Dismissed.

Petitioner requests that three documents entitled 1) Information Disclosure Statement coupled with PTO Forms SB/08A and SB/08B related to U.S. Application No. 11/858,532; 2) NPL Document representing web pages from A1Articles.com; and 3) NPL Document representing web pages from Invisalign.com.; filed on in October 12, 2007 be expunged or removed from the file record.

In the petition, petitioner fails to state and acknowledge that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. Petitioner also fails to pay a petition fee under 37 CFR 1.17(g) and positively identify the documents by title and number of pages.

Due to the deficiencies as noted above, the requested expungement or removal of information can not be granted under 37 CFR 1.59. Any questions regarding this petition decision should be directed to Henry Yuen, Technology Center, Special Programs Examiner at 571 – 272-4568.

The petition is dismissed.

Angela D. Sykes, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : February 3, 2010

TO SPE OF : ART UNIT 3671
SUBJECT : Request for Certificate of Correction for Appl. No.:11/848753 Patent no.7610742

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should request 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

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: _____

SPE 3671

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/848,788	08/31/2007	Kaihong Wei	33849-159	4401

30903 7590 06/09/2011
CRAIN, CATON & JAMES
FIVE HOUSTON CENTER
1401 MCKINNEY, 17TH FLOOR
HOUSTON, TX 77010

EXAMINER
TSENG, CHARLES

ART UNIT	PAPER NUMBER
2628	

NOTIFICATION DATE	DELIVERY MODE
06/09/2011	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):

wjensen@craincaton.com
jhudson@craincaton.com
ipdocket@craincaton.com

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CRAIN, CATON & JAMES
FIVE HOUSTON CENTER
1401 MCKINNEY, 17TH FLOOR
HOUSTON TX 77010

In re application of	:	
WEI, KAIHONG et al.	:	DECISION
Application Serial No. **11/848,788**	:	ON PETITION
Filed: **August 31, 2007**	:	
Attorney Docket Number: **33849-159**		
SYSTEMS AND METHODS FOR IMAGING WAVEFORM VOLUMES	:	

This is a response to two petitions under 37 CFR 1.59(b), filed October 17, 2008 and January 6, 2010 to expunge information from the above identified application.

The petitions are **granted**.

Petitioner requests that the following information submitted on October 17, 2008 be expunged from the record.

1. OpenWorks Sections, 2004, 12 pages
2. LANDMARK GRAPHICS CORPORATION, Operational manual on "Seiscube," October 1996, pp. 1-272
3. LANDMARK GRAPHICS CORPORATION, Operational manual on "OpenVision," July 1997, pp. 1-169
4. Landmark Graphics, User Documentation, Faults (Displaying Faults and Using Seismic Planes with Animation and Frame Control), EarthCube, 2002, Pgs. 11-15, 53-55
5. Landmark Graphics, User Documentation, Seismic (Overview & Seismic Display and Navigation), EarthCube, 2002, Pgs. 1, 65-115
6. Landmark Graphics, User Documentation, Setup (Faults & Selecting an Object), EarthCube, 2002, Pgs. 13-20, 93-99
7. COGNISEIS, "VoxelGeo version 2.2 Product Definition version 14", 1996- 05, 27 pages; Houston, Texas
8. VoxelGeo User's Manual 2.1.5, October 1996, 213 Pages, Cogniseis Development, Inc., Houston, Texas

Petitioner states that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public and the information has not otherwise been made public. By reason of Notice of Allowability mailed May 13, 2011, the examiner has determined the materials submitted under MPEP § 724.02 not to be material to the examination of the instant application to a reasonable examiner. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The expunged material has been rendered unavailable to the public.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Any inquiry regarding this decision should be directed to Daniel Swerdlow, Quality Assurance Specialist, at (571) 272-7531.

/Daniel Swerdlow/

Daniel Swerdlow
Quality Assurance Specialist
Technology Center 2600
Communications

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.
11/848,788	08/31/2007	Kaihong Wei	33849-159	4401

30903 7590 06/09/2011
CRAIN, CATON & JAMES
FIVE HOUSTON CENTER
1401 MCKINNEY, 17TH FLOOR
HOUSTON, TX 77010

EXAMINER
TSENG, CHARLES

ART UNIT	PAPER NUMBER
2628	

NOTIFICATION DATE	DELIVERY MODE
06/09/2011	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):

wjensen@craincaton.com
jhudson@craincaton.com
ipdocket@craincaton.com

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CRAIN, CATON & JAMES
FIVE HOUSTON CENTER
1401 MCKINNEY, 17TH FLOOR
HOUSTON TX 77010

In Re Application of **WEI, KAIHONG**, et al. Application Serial No. **11/848,788** Filed: **August 31, 2007** For: **SYSTEMS AND METHODS FOR IMAGING WAVEFORM VOLUMES**	: : : : :	DECISION ON PETITION TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed September 12, 2007, requesting acceptance of color drawings.

The petition requests that the color drawings, noted as figures 4-14 be accepted.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), three (3) sets of the color drawings in question, a black and white photocopy of said drawings, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

" The patent or application file 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."

Petitioner has met the requirements set forth above. Accordingly, the petition is **Granted**.

Any inquiry regarding this decision should be directed to Daniel Swerdlow, Quality Assurance Specialist, at (571) 272-7531.

/ Daniel Swerdlow /

Daniel Swerdlow
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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June 9, 2011

CRAIN, CATON & JAMES
FIVE HOUSTON CENTER
1401 MCKINNEY, 17TH FLOOR
HOUSTON TX 77010

In re Application of	:	
Wei, Kaihong et, al	:	**DECISION ON PETITION**
Application No. 11/848,788	:	
Filed: 08/31/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 33849-159	:	***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) September 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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/848,788	08/31/2007	Kaihong Wei	33849-159	4401

7590 06/13/2011

CRAIN, CATON & JAMES
FIVE HOUSTON CENTER
1401 MCKINNEY, 17TH FLOOR
HOUSTON, TX 77010

EXAMINER
TSENG, CHARLES

ART UNIT	PAPER NUMBER
2628	

NOTIFICATION DATE	DELIVERY MODE
06/13/2011	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)

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FISH & RICHARDSON P.C. (SD)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
JAN 12 2012
OFFICE OF PETITIONS

In re Patent No. 8,044,962	:
Issued: October 25, 2011	: DECISION ON REQUEST
Application No. 11/848,799	: FOR RECONSIDERATION
Filed: August 31, 2007	: OF PATENT TERM ADJUSTMENT
Attorney Docket No. 20567-0035001	:

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on December 27, 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 944 to 1051 days.

The petition to correct the patent term adjustment is **DISMISSED**.

BACKGROUND

On October 25, 2011, the above-identified application matured into U.S. Patent No. 8,044,962, with a revised patent term adjustment of 944 days. On December 27, 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 1051. 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 on June 3, 2011) the Office mailed a Notice of Allowance on July 11, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 107 day period from July 11, 2011 (the mailing date of the Notice of Allowance) until October 25, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 107 days and be increased from 275 to 382 days. Patentee concludes that the correct patent term adjustment is 1051 days (the sum of 686 days of "A delay" and 382 days of "B delay" minus 17 days overlap minus 0 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 275 days based on the application having been filed under 35 U.S.C.

111(a) on August 31, 2007 and the patent not having issued as of the day after the three year date, August 31, 2010, and a request for continued examination under 132(b) having been filed on June 3, 2011. In other words, the 107-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 delay" does not include any days used in the course of or any time consumed by

[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or

uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue

[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on July 11, 2011, and the patent issued by virtue of that request on October 25, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on July 11, 2011 and ending on October 25, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 944 days indicated on the patent is correct.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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BEDMINISTER NJ 07921

In re Application of	:	
David Krantz, et al.	:	
Application No. 11/848,881	:	DECISION ON PETITION
Filed: August 31, 2007	:	
Attorney Docket No. 2007-0463	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed May 24, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 25, 2010. The Notice of Abandonment was mailed January 3, 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 election, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2175 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **TOLER LAW GROUP**
8500 Bluffstone Cove, Suite A201
Austin, TX 78759

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INGRASSIA FISHER & LORENZ, P.C. (Symbol)
7010 E. COCHISE ROAD
SCOTTSDALE, AZ 85253-1406

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In re Application of	:
Sameer Kanagala, et al.	:
Application No. 11/848,915	: DECISION ON PETITION
Filed: August 31, 2007	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No.: 022.0014 (2556)	:

This is a decision on the petition, filed August 17, 2010, which is being treated as a petition under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of 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.

This pending nonprovisional application was filed on August 31, 2007, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/843,139, which was filed on September 8, 2006, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. 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. § 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).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

Further correspondence with respect to this matter should be 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]

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

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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INGRASSIA FISHER & LORENZ, P.C.
(Symbol/Mot Sol)
7010 E. COCHISE ROAD
SCOTTSDALE, AZ 85253-1406

In re Application of	:	
Sameer Kanagala, et al.	:	
Application No. 11/848,915	:	DECISION ON PETITION
Filed: August 31, 20007	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No.: 022.0014 (2556)	:	

This is a decision on the renewed petition, filed December 2, 2010, under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The 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 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 non-provisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

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) 272-3204. 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 2612 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.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
11/848,915	08/31/2007	2612	1130	022.0014 (2556)	14	3

CONFIRMATION NO. 4628

CORRECTED FILING RECEIPT

80558
INGRASSIA FISHER & LORENZ, P.C. (Symbol/Mot Sol)
7010 E. COCHISE ROAD
SCOTTSDALE, AZ 85253-1406

OC000000045816524

Date Mailed: 02/03/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Sameer KANAGALA, San Carlos, CA;
Kamran Khojasteh, Morgan Hill, CA;

Assignment For Published Patent Application

SYMBOL TECHNOLOGIES, INC., Holtsville, NY

Power of Attorney: The patent practitioners associated with Customer Number 29906

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/843,139 09/08/2006

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: 09/12/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/848,915**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHODS AND APPARATUS FOR A PERVASIVE LOCATIONING AND PRESENCE-DETECTION SYSTEM

Preliminary Class

340

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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In re Application of	:	
Bradford G. Baruh	:	
Application No.: 11/848986	:	DECISION ON
Filing or 371(c) Date: 08/31/2007	:	PETITION
Title of Invention:	:	
RETRACTABLE SOLAR PANEL SYSTEM	:	

This is a decision in response to the Petition, filed May 12, 2011, to revive an unintentionally abandoned application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed September 2, 2010. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No complete and proper reply having been received, the application became abandoned on December 3, 2010. A Notice of Abandonment was mailed March 16, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuation application No. 13/106,427, filed May 12, 2011.

Telephone inquiries concerning this Decision only should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: KIRK M. NUZUM
600 WEST BROADWAY
SUITE 1100
SAN DIEGO, CA 92101

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In re Application of	:	
DAHM, et al	:	
Application No. 11/849,147	:	DECISION ON PETITION
Filed: August 31, 2007	:	
Attorney Docket No. D011.PAT-3	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 1, 2011 and supplemented on September 2, 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 June 23, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed March 23, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 24, 2011. A Notice of Abandonment was mailed July 7, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and publication fee of $300; (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. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT V. DONAHOE
LANDO & ANASTASI, LLP
RIVERFRONT OFFICE PARK
ONE MAIN STREET
CAMBRIDGE MA 02142

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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APR 06 2011

OFFICE OF PETITIONS

COOLEY LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON, DC 20001

In re Application of	:	
CHATFIELD, Michael R. et al.	:	
Application No. 11/849,156	:	DECISION ON PETITION
Filed: August 31, 2007	:	TO WITHDRAW
Attorney Docket No. **BOBJ-183/00US 304661-2411**	:	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** because it is moot.

A review of the file record indicates that the change of address has been previously filed. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle at 571-272- 2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **BUSINESS OBJECTS AMERICAS; BUSINESS OBJECTS S.A.**
SAP AMERICA, INC.; BUSINESS OBJECTS SOFTWARE LTD.
BUSINESS OBJECTS DATA INTEGRATION, INC.
777 6TH STREET NW, SUITE 1100, ATTN: B. GALLIANI
WASHINGTON DC 20001

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VEDDER PRICE, PC
222 NORTH LASALLE STREET
CHICAGO, IL 60601

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FEB 09 2012
OFFICE OF PETITIONS

In re Application of	:	
Agata Opalach, et al.	:	
Application No. 11/849,165	:	DECISION GRANTING PETITION
Filed: August 31, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 33836.00.0163	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 8, 2012, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 13, 2012 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2624 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Cooley, Godward Kronish, LLP
Attn: Patent Group
Suite 500
1200 – 19th Street, NW
Washington, DC 20036-2402

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Application of
Michael Gary Player
Application No. 11/849,172
Filed: August 31, 2007
Attorney Docket No. 34874-690F01US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 15, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because there was no proper forwarding correspondence address was provided. 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON DC 20036-5304

MAILED

AUG 0 6 2010

OFFICE OF PETITIONS

In re Application of	:	
St-Pierre, et al.	:	DECISION REFUSING STATUS
Application No. 11/849,178	:	UNDER 37 CFR 1.47(a)
Filed: August 31, 2007	:	
Attorney Docket No. 77221.21761	:	

This is in response to the petition under 37 CFR 1.47(a), filed April 11, 2008.

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. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47" and may include an oath or declaration executed by the legal representative. **Failure to respond will result in abandonment of the application.**

When an inventor is deceased, insane, or incapacitated, a legal representative may sign the declaration on the inventor's behalf. The declaration must:

(a) state the inventor's full name, citizenship, residential address, and mailing address if the mailing address differs from the residential address or the last known addresses,

(b) state the representative is a legal representative,

(c) state the representative's full name, citizenship, residential address, and mailing address if the mailing address differs from the residential address or the last known addresses, and

(d) be signed by the legal representative on the inventor's behalf (usually above the inventor's name).

A petition under 37 CFR 1.47 is only necessary when the legal representative cannot be found or refuses to sign the oath or declaration. If a petition under 37 CFR 1.47(a) is necessary, the petition requires:

(1) a declaration which includes the information listed above along with the signatures of the available inventors,
(2) proof that the legal representative cannot be found or reached after diligent effort or that the legal representative refuses to sign after having been presented with the application papers (specification, claims, and drawings),
(3) the petition fee, and
(4) the signing inventors sign the declaration on behalf of the non-signing legal representative.

This petition does not satisfy requirement (1) above.

With respect to (1) above, the declaration appears to only list information for one person. Information for both the deceased inventor and his legal representative are required.

Petitioners may wish to modify the "DECLARATION FOR PATENT APPLICATION" to state: "Joint Inventor _____ (deceased), late a citizen of Canada and resident of _____, Legal Representative _____citizen of _____ and resident of _____." The available joint inventors should execute the supplemental declaration. The space for the deceased inventor's signature must remain blank. The supplemental declaration should identify the application number and filing date of the application. A supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64, as set forth above, is **REQUIRED** before issuance of the application as a patent.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

By internet: EFS-Web
www.uspto.gov/ebc/efs_help.html
(for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON DC 20036-5304

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NOV 05 2010
OFFICE OF PETITIONS

In re Application of	:	
St-Pierre, et al.	:	DECISION REFUSING STATUS
Application No. 11/849,178	:	UNDER 37 CFR 1.47(a)
Filed: August 31, 2007	:	
Attorney Docket No. 77221.21761	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed September 13, 2010.

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. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47" and should include an oath or declaration executed by the signing joint inventors. **Failure to respond will result in abandonment of the application.**

When an inventor is deceased, insane, or incapacitated, a legal representative may sign the declaration on the inventor's behalf. The declaration must:

(a) state the inventor's full name, citizenship, residential address, and mailing address if the mailing address differs from the residential address or the last known addresses,
(b) state the representative is a legal representative,
(c) state the representative's full name, citizenship, residential address, and mailing address if the mailing address differs from the residential address or the last known addresses, and
(d) be signed by the legal representative on the inventor's behalf (usually above the inventor's name).

A petition under 37 CFR 1.47 is only necessary when the legal representative cannot be found or refuses to sign the oath or declaration. If a petition under 37 CFR 1.47(a) is necessary, the petition requires:

(1) a declaration which includes the information listed above along with the signatures of the available inventors,

(2) proof that the legal representative cannot be found or reached after diligent effort or that the legal representative refuses to sign after having been presented with the application papers (specification, claims, and drawings),
(3) the petition fee, and
(4) the signing inventors sign the declaration on behalf of the non-signing legal representative.

This petition does not satisfy requirements (1) and (4) above.

With respect to (1) above, applicants have submitted only page 4 of the declaration. The declaration must be complete.

With respect to (4) above, because applicants have submitted only page 4 of the declaration, it is unclear as to whether the available joint inventors have executed the four page declaration. It is not possible to append an additional page to the declaration filed April 11, 2008.

A new declaration, which is signed by the remaining inventors and sets forth the name of the deceased inventor, as well as the name, residence and citizenship of the legal representative of the deceased inventor, is **REQUIRED**. *See* MPEP § 409.03(a).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

By internet: EFS-Web
www.uspto.gov/ebc/efs_help.html
(for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON DC 20036-5304

MAILED
JAN 18 2011
OFFICE OF PETITIONS

In re Application of	:	
St-Pierre, et al.	:	DECISION GRANTING STATUS
Application No. 11/849,178	:	UNDER 37 CFR 1.47(a)
Filed: August 31, 2007	:	
Attorney Docket No. 77221.21761	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed December 29, 2010.

The petition is **GRANTED.**

Petitioners have shown that the legal representative of the deceased inventor, Louise Mailloux-LeClerc, cannot be located to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the legal representative of the deceased inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to the Office of Data Management for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

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SEP 30 2010

OFFICE OF PETITIONS

In re Application of

John A. YATES, et *al.*
Application No. 11/849,182
Filed: August 31, 2007
Attorney Docket No. **643958001US1**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 25, 2010.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Stephen Bishop 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.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed July 2, 2010 that requires a reply from the applicant.]

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **JOHN ANDREW YATES**
103 S. HAMILTON STREET
MCLEAN, IL 61754

cc: **MATTHEW SCOTT WALSH**
2252 HOWARD AVENUE
SAN CARLOS, CA 94070

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 08 2010

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

In re Application of	:	
Chua et al.	:	DECISION ON PETITION
Application No. 11/849,230	:	TO WITHDRAW
Filed: August 31, 2007	:	FROM RECORD
Attorney Docket: CYLE-033/05US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 3, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that Morrison & Foerster LLP were revoked as power of attorney by the assignee of the patent application on August 6, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: COOLEY LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON, DC 20001

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEIGH HUNT FIRESTONE
7100 NORFOLK ROAD
BERKELEY CA 94705

MAILED
AUG 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Ken	:	
Application No. 11/849,244	:	DECISION
Filed/Deposited: 31 August, 2007	:	
Attorney Docket No. KEN-004	:	

This is a decision on the papers filed on 23 June, 2011, for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

The petition pursuant to 37 C.F.R. §1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioner does not appear to have satisfied the requirements under the Rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

Application No. 11/849,244

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 27 January, 2010, with reply due absent an extension of time on or before 27 April, 2010.

The application went abandoned by operation of law after midnight 27 April, 2010.

For reasons not revealed in the record, on 14 June, 2010, Petitioner filed a terminal disclaimer (TD) (double patenting) but without the required fee and without a reply in the form of an amendment and a request and fee for extension of time to make the reply timely. The TD was rejected for failure to pay the required fee.

The Office mailed the Notice of Abandonment on 28 January, 2011.

On 23 June, 2011, Petitioner Leigh H. Firestone (Reg. No. 36,831) filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, and a statement of unintentional delay, but no reply and while Petitioner submitted a fee for a terminal disclaimer the form submitted (to accompany a petition) was improper. Thus, Petitioner failed to file a proper reply (amendment and the proper terminal disclaimer).

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).

Petitioner has failed to satisfy the requirements under the Rule and discussed above.

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]

---

[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).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

Again, Petitioner's attentions are directed to the guidance in the Commentary at MPEP §711.03(c).

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

Petitioner failed to satisfy the requirements under the Rule.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

---

[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.

Application No. 11/849,244

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEIGH HUNT FIRESTONE
7100 NORFOLK ROAD
BERKELEY CA 94705

MAILED
JAN 18 2012
OFFICE OF PETITIONS

In re Application of	:	
Ken	:	
Application No. 11/849,244	:	DECISION
Filed/Deposited: 31 August, 2007	:	
Attorney Docket No. KEN-004	:	

This is a decision on the papers filed on 11 September, 2011, for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 27 January, 2010, with reply due absent an extension of time on or before 27 April, 2010.

The application went abandoned by operation of law after midnight 27 April, 2010.

For reasons not revealed in the record, on 14 June, 2010, Petitioner filed a terminal disclaimer (TD) (double patenting) but without the required fee and without a reply in the form of an amendment and a request and fee for extension of time to make the reply timely. The TD was rejected for failure to pay the required fee.

Application No. 11/849,244

The Office mailed the Notice of Abandonment on 28 January, 2011.

On 23 June, 2011, Petitioner Leigh H. Firestone (Reg. No. 36,831) filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, and a statement of unintentional delay, but no reply and while Petitioner submitted a fee for a terminal disclaimer the form submitted (to accompany a petition) was improper. Thus, Petitioner failed to file a proper reply (amendment and the proper terminal disclaimer). The petition was dismissed on 2 August, 2011.

On 11 September, 20111, Petitioner re-advanced his petition, this time pointing to the fee previously paid, submitting a reply in the form of the now approved terminal disclaimer (to overcome double patenting) with fee, and made the statement of unintentional delay.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18, formerly §10.18, to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast,

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

As to Allegations of
Unintentional Delay

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 3773 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

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unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[4] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

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 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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Alexandria, VA 22313-1450
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MICHAEL A DESANCTIS
HAMILTON DESANCTIS & CHA LLP
FINANCIAL PLAZA AT UNION SQUARE
225 UNION BOULEVARD, SUITE 150
LAKEWOOD CO 80228

MAILED
MAR 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Joseph Cheng, et al.	:	
Application No. 11/849,352	:	DECISION ON PETITION
Filed: September 3, 2007	:	
Attorney Docket No. FORT-002510	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers, mailed July 6, 2010. The Notice set a period for reply of two (2) months from the mail date of the Notice. The period for reply was not extendable under 37 CFR 1.136(a). Accordingly, the application became abandoned on September 7, 2010. The Notice of Abandonment was mailed 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 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 further processing.

/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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MING HUG HUANG
235 CHUNG - HO
BOX 8-24
TAIPEI TW TAIWAN

MAILED
MAY 27 2011
OFFICE OF PETITIONS

In re Application of	:	
Huang	:	
Application No. 11/849,353	:	DECISION
Filed/Deposited: 3 September, 2007	:	
Attorney Docket No. LP7003	:	

This is a decision on the petition filed on 26 January, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

NOTE:

The record (including the petition filed on 26 January, 2011) does not necessitate a finding that the delay between midnight 29 July, 2009 (the date of abandonment), and 26 January, 2011 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Applicant Ming Hug Huang when accepting Petitioners' representation that the delay in filing the response was unintentional.[1]

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

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 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).

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 29 April, 2009, with reply due absent extension of time on or before 29 July, 2009.

The application went abandoned by operation of law after midnight 29 July, 2009.

Petitioner filed a reply on 30 July, 2009, but failed to submit a request and fee for extension of time.

The Office mailed the Notice of Abandonment on 24 November, 2009.

On 26 January, 2011, Petitioner filed, *inter alia*, a petition with fee pursuant to 37 C.F.R. §1.137(b), pointed to the reply in the form of an amendment previously submitted, and made the statement of unintentional delay.

As previously noted, the record (including the petition filed on 26 January, 2011) does not necessitate a finding that the delay between midnight 29 July, 2009 (the date of abandonment), and 26 January, 2011 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Applicant Ming Hug Huang when accepting Petitioners' representation that the delay in filing the response was unintentional.[2]

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

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[2] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

STATUTES, REGULATIONS 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, 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 3637 for further processing in due course.

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[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] 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 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

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/849,475	09/04/2007	Zenon LISIECZKO	1556-001/34-22(55292)	5787

32905 7590 09/21/2010
JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK, CO 80108

EXAMINER
MCELWAIN, ELIZABETH F

ART UNIT	PAPER NUMBER
1638	

NOTIFICATION DATE	DELIVERY MODE
09/21/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JondleOA@jondlelaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 2 1 2010

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of:	:
Zenon Lisieczko	:
Serial No.: 11/849,475	: PETITION DECISION
Filed: September 4, 2007	:
Attorney Docket No.: **1556-001/34-22(55292)**	

This is in response to the petition under 37 CFR § 1.59(b), filed September 10, 2010, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on September 10, 2010, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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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.
11/849,475	09/04/2007	Zenon LISIECZKO	1556-001	5787

32905 7590 06/03/2011
JONDLE & ASSOCIATES, P.C.
858 HAPPY CANYON ROAD, SUITE 230
CASTLE ROCK, CO 80108

EXAMINER
MCELWAIN, ELIZABETH F

ART UNIT	PAPER NUMBER
1638	

NOTIFICATION DATE	DELIVERY MODE
06/03/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JondleOA@jondlelaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

JUN 0 3 2011

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Alexandria, VA 22313-1450
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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of:
Zenon Lisieczko
Serial No.: 11/849,475
Filed: September 4, 2007
Attorney Docket No.: **1556-001**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed May 3, 2011, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the material submitted to the Patent Office on September 10, 2010 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

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P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

MAILED
JUN 22 2011
OFFICE OF PETITIONS

In re Application of Laser et al. :
Application No. 11/849,491 : Decision on Petition
Filing Date: September 4, 2007 :
Attorney Docket No. 085449-0210 :

This is a decision on the petition under 37 CFR 1.137(b) filed June 15, 2011. This is also a decision on the petition under 37 CFR 1.182 filed June 15, 2011, which requests expedited consideration of the petition under 37 CFR 1.137(b).

The petition under 37 CFR 1.137(b) is **granted**.

The petition under 37 CFR 1.182 is **granted**.

Background

The Office mailed a final Office action on December 14, 2010. The Office action set a shortened statutory period for reply of three (3) months.

A one-month extension of time was obtained on April 14, 2010.

A proper reply was not timely filed in response to the final Office action. As a result, the application became abandoned on April 15, 2010.

Discussion

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and

(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995, or if the application is a design application.

As to item (1), the petition states the required reply is being submitted in the form of payment for an extension of time. However, payment for an extension of time is *not* a proper reply under 37 CFR 1.137(b).

A search of Office records indicates a divisional of the instant application was filed June 14, 2010. The divisional has been assigned Application No. 13/160,292.

Although the petition does not include a reference to the divisional application, the petition appears to be seeking revival of the application in order to obtain copendency with the divisional application.

37 CFR 1.137(c) states, "In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application." Therefore, the filing of the divisional application satisfies the requirement for a reply.

MPEP 711.03(c)(II)(A) states, "A petition for an extension of time under 37 CFR 1.136 and a fee for such an extension of time are not required to be included with the reply." Therefore, the $980 extension of time fee submitted with the petition will be credited back to the credit card used to pay the fee.

As to item (2), the petition includes the required petition fee of $1,620.

As to item (3), the petition includes the required statement of unintentional delay.

As to item (4), a terminal disclaimer is unnecessary because the instant application is a nonprovisional application filed after June 8, 1995.

In view of the prior discussion, the petition is granted.

Since this application is being revived for purposes of copendency only, and since copendency has been established by this decision reviving the application, the application is again abandoned in favor of Application No. 13/160,292. The new date of abandonment for the instant application is the mailing date of this decision.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OCT 18 2010

OFFICE OF PETITIONS

THE PROCTER & GAMBLE COMPANY
GLOBAL LEGAL DEPARTMENT – IP
SYCAMORE BUILDING – 4TH FLOOR
299 EAST SIXTH STREET
CINNCINNATI OH 45202

In re Application of	:	
Wolfgang LONGERICH, et al	:	
Application No. 11/849,492	:	ON PETITION
Filed: September 4, 2007	:	
Attorney Docket No. 06877/Z07956Q	:	

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 petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 27, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A two (2) month and a three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is January 28, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

The Examiner assigned to this application confirms that the amendment filed on July 29, 2010, places the application in condition for allowance.

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 July 29, 2010, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account 16-2480.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3724 for processing of the response in the normal course of business.

/DG/
Diane Goodwyn
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : March 5, 2012

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/849503 Patent No.: 8068674 .

Co f C mailroom date: 02-21-12.

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: [redacted]

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:

/Jason M Repko/ 2624
SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : March 5, 2012

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/849503 Patent No.: 8068674 .

Co f C mailroom date: 02-21-12.

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: Reconsideration

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:

/Jason M Repko/ — SPE

2624 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

DIEHL SERVILLA LLC
33 WOOD AVE SOUTH
SECOND FLOOR, SUITE 210
ISELIN, NJ 08830

In re Application	:	
Thompson et al.	:	DECISION ON PETITION
Application No. 11/849,566	:	TO WITHDRAW
Filed: September 4, 2007	:	FROM RECORD
Attorney Docket No. ANS0116-00US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 30, 2010.

The request is **DISMISSED**.

A review of the file record indicates that practitioners associated with Customer Number 48394 were not properly appointed Power of Attorney in the above identified application. A new Power of Attorney was filed on September 29, 2010, by the assignee of record. As a result, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will be directed to the current correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SNR DENTON US LLP
P.O. BOX 061080
CHICAGO, IL 60606-1080

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NOV 04 2010

OFFICE OF PETITIONS

In re Application of
Alan Leung
Application No. 11/849,630
Filed: September 4, 2007
Attorney Docket No. 0910690-0020

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 23, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because the practitioner(s) requesting the withdrawal have not certified that they (1) have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment, nor have they certified that they (3) have notified the client of any responses that may be due and the time frame within which the client must respond. The failure to do so may subject the practitioner to discipline. It is also noted that false certification may violate a practitioners' duty under 37 CFR 10.23(b)(4) and (b)(5).

Further the request cannot be approved because the practitioner has not provided the Office with a current address to which to address future correspondence.

Practitioners requesting withdrawal from representation are strongly encouraged to provide the Office with the most current address information related to the first named inventor or the assignee of the entire interest, so that the Office can direct future correspondence to the proper place.

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

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. : 7,772,466 B2
Ser. No. : 11/849,730
Inventor(s) : Fox
Issued : Aug. 10, 2010
Title : BARLEY CULTIVAR PRONGHORN

Docket No. : 1555-002
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
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Monsanto Technology LLC
Patent Dept. EN2A
800 North Lindbergh Blvd.
St. Louis MO 63167

MAILED

JUN 09 2011

OFFICE OF PETITIONS

In re Patent No. 7,772,466 :
Issue Date: August 10, 2010 :
Application No. 11/849,730 : DECISION ON PETITION
Filed: September 4, 2007 :
Attorney Docket No. 1555-002 :

This is a decision on the Request Under 37 C.F.R. 3,81(b) To Correct Assignment Data and Request For Issuance Of Certificate Of Correction, filed February 7, 2011, requesting correction on the Title Page of the subject patent to correct assignee's name. The request is being treated as a Petition Under 37 CFR §3.81(b). A completed Certificate of Correction Form (PTO/SB/44) was submitted with petition

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct assignee's name and such error was inadvertent. Accordingly, petitioner requests that a Certificate of Correction be issued to correct inventors' names to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR §1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR §1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. After further review of the Office records, a corrected Certificate of Correction was previously signed and sealed on March 8, 2011. (copy enclosed)

Inquiries related this communication should be directed to Cheryl Gibson-Baylor 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.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,772,466 B2
APPLICATION NO. : 11/849730
DATED : August 10, 2010
INVENTOR(S) : Gregory J. Fox

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title Page, Item (73) Assignee, change "Westbred LLC, Bozeman, MT (US)" to read as --Monsanto Technology, LLC, St. Louis, MO (US)--.

Signed and Sealed this
Eighth Day of March, 2011

David J. Kappos

David J. Kappos
Director of the United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No.

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

OCT 19 2010

OFFICE OF PETITIONS

In re Application of :
Hansen et al. :
Application No. 11/849,786 : ON APPLICATION FOR
Filed: 09/04/2007 : PATENT TERM ADJUSTMENT
Atty Docket No. :
18654US02 :

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)," filed on August 10, 2010, which is treated as a petition under 37 C.F.R. §1.705(b). Applicants submit that the patent term adjustment to be indicated on the patent should be increased by 73 days from 456 days to 529 days. Applicants request this correction on the basis that the patent will issue on November 16, 2010.

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.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

DEC 0 1 2010

OFFICE OF PETITIONS

In re Application of :
Hansen et al. :
Application No. 11/849,832 : ON APPLICATION FOR
Filed: 09/04/2007 : PATENT TERM ADJUSTMENT
Atty Docket No. :
18802US02 :

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)," filed on September 23, 2010, which is treated as a petition under 37 CFR 1.705(b). Applicants submit that the patent term adjustment to be indicated on the patent should be increased from 457 days by 122 days to 579 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue the patent.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

---

1 For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 9, 2012

TO SPE OF : ART UNIT 2618 SPE Duc M. Nguyen.

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/849,952 Patent No.: 8,019,060 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Should changes to claim 10 be approved as requested by applicant?
See COCIN dated 3-23-2012

Antonio Johnson

Certificates of Correction Branch

(571)272-0483 Fax – (571)270-9846

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XApproved	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: ok to enter. No new matter to the claim or specification

SPE_/Duc Nguyen/_____ **Art Unit** ___2618_____

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133

MAILED

FEB 27 2012

OFFICE OF PETITIONS

In re Application of	:	
William G. **TURNELL** et al.	:	
Application No. 11/849,989	:	DECISION ON PETITION
Filed: September 04, 2007	:	TO WITHDRAW
Attorney Docket No. **MEDIV3070-1**	:	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 15, 2012.

The request is **NOT APPROVED**.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 C.F.R 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the change of address is not that of: **(1) the first named inventor; or (2) an assignee of the entire interest under C.F.R 3.71, who has properly intervened.** 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.

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/
Michelle R. Eason
Paralegal Specialist
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/09/11

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 11850011 Patent No.: 7940250

CofC mailroom date: 10/31/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: Should the changes to claim 51 be approved?

All changes including changes to claim 51 should be approved.

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

X Approved — **All** changes apply.

❑ **Approved in Part** — Specify below which changes **do not** apply.

❑ **Denied** — State the reasons for denial below.

Comments: All changes are approved

/Amr Awad/ ____2629___

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/07/11

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 11850013 Patent No.: 7864163

CofC mailroom date: 01/18/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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: The changes do not change the scope of the claims.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

APPROVED

SPE /ALEXANDER EISEN/ AU2629

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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INTERNATIONAL BUSINESS MACHINES CORPORATION
Richard Lau
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE NY 12601

MAILED

FEB 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Yuen H. Chan et al.	:	DECISION GRANTING STATUS
Application No. 11/850,050	:	UNDER 37 CFR 1.47(a)
Filed: September 5, 2007	:	
Attorney Docket No. POU920070037US1	:	

This is in response to the paper filed September 5, 2007 which is being treated as a petition under 37 CFR 1.47(a).

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to Technology Center Art Unit 2187 for further consideration by the examiner of record.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kenneth Lo
2451 Midtown Ave #1311
Alexandria, VA 22303

MAILED

FEB 10 2011

OFFICE OF PETITIONS

In re Application of
Yuen H. Chan
Application No. 11/850,050
Filed: September 5, 2007
For: HIGH PERFORMANCE PSEUDO DYNAMIC 36 BIT COMPARE

Dear Mr. Lo:

You are named as a co-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 co-inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-6842. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Carl Friedman
Petitions Examiner
Office of Petitions

cc: INTERNATIONAL BUSINESS MACHINES CORPORATION
Richard Lau
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE NY 12601

UNITED STATES 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
MAR 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Klose et al.	:	
Application No.: 11/850168	:	ON PETITION
Filing or 371(c) Date: 09/05/2007	:	
Attorney Docket Number: 127-204007	:	

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 **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to reply to the Notice of Allowance and Issue Fee Due, mailed August 6, 2010[1], and the failure to submit corrected drawings on or before November 6, 2010, as required by the Notice of Allowability, mailed August 6, 2010. Accordingly, the date of abandonment of this application is November 7, 2010.

Petitioner files the present petition and a replacement drawing.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c).

The instant petition lacks item (3) above.

[1] Petitioner filed the issue fee electronically on November 8, 2010. Petitioner is advised that 37 CFR 1.6 excludes from the weekend rule any correspondence filed electronically. See, 37 CFR 1.6 §§ (a)(1) and (a)(4).

Regarding item (3) above, the statement of unintentional delay is not considered at this time to be a properly submitted statement. A statement of unintentional delay that tracks the language of the regulation is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this petition Decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: PTO/SB/64

UNITED STATES 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
APR 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Klose et al.	:	
Application No.: 11/850168	:	ON PETITION
Filing or 371(c) Date: 09/05/2007	:	
Attorney Docket Number: 127-204007	:	

This is a decision on the renewed 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**.

This application became abandoned for failure to reply to the Notice of Allowance and Issue Fee Due, mailed August 6, 2010, and the failure to submit corrected drawings on or before November 6, 2010, as required by the Notice of Allowability, mailed August 6, 2010. Accordingly, the date of abandonment of this application is November 7, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee and the publication fee (previously submitted); (2) the petition fee (previously submitted); and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

This application is being referred to the Office of Data Management for processing into a patent.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FAY SHARPE LLP
1228 EUCLID AVENUE, 5TH FLOOR
THE HALLE BUILDING
CLEVELAND, OH 44115

MAILED

FEB 16 2011

OFFICE OF PETITIONS

In re Application of	:	
Lu et al.	:	
Application No. 11/850,200	:	DECISION ON PETITION
Filed: September 5, 2007		TO WITHDRAW FROM RECORD
Attorney Docket No. 2121.33	:	
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 13, 2011.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on February 9, 2011 the power of attorney to Fay Sharpe LLP was revoked by the assignee of the patent application. 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 notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: HAMMER & ASSOCIATES, P.C.
3125 SPRINGBANK LANE
SUITE G
CHARLOTTE NC 28226

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DUANE MORRIS LLP (TSMC)
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

MAILED

SEP 08 2010

OFFICE OF PETITIONS

In re Application of :
Hsien-Wei Chen et al :
Application No. 11/850,283 : ON PETITION
Filed: September 5, 2007 :
Attorney Docket No. 2007.0131/1085.506

This is a decision on the petition, filed August 30, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 13, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2826 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

Peter J. Gluck
c/o The Eclipse Group
Suite 150
1920 Main Street
Irvine CA 92614

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Donna K. Jackson	:	DECISION ON PETITION
Application No. 11/850,294	:	TO WITHDRAW
Filed: September 5, 2007	:	FROM RECORD
Attorney Docket No. **075270.011501**	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed February 15, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks the name of the first inventor or the assignee of record that is associated with the address listed in the request. Therefore, the change of correspondence address is considered improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

A courtesy copy of this decision is being mailed to the address on the request. However, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Marlan D. Walker
2050 Main Street, Suite 600
Irvine, CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED
OCT 12 2011
OFFICE OF PETITIONS

In re Application of	:	
Yuli Yang	:	
Application No. 11/850309	:	ON REQUEST FOR
Filing or 371(c) Date: 09/05/2007	:	RECONSIDERATION OF
Attorney Docket Number:	:	PATENT TERM ADJUSTMENT
Q103697	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed September 13, 2011. Applicant petitions for reconsideration of the patent term adjustment to 594 days, not 356 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction based upon an assertion that the Office erred in calculating a reduction of 238 days.

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), as it relates to the assertion that the Office erred in calculating a reduction of 238 days is **GRANTED to the EXTENT INDICATED**.

On July 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 356 days.

On September 13, 2011, Applicant timely submitted the instant application for patent term adjustment[1]. Applicant requests that the Determination of Patent Term Adjustment be corrected from 356 days, as indicated on the Determination of PTA mailed July 27, 2011, to an adjustment of 594 days. Applicant avers that the Office incorrectly charged Applicant with 238 days of delay.

Applicant asserts that the Office erred in calculating a reduction of 238 days. The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed July 27, 2011 indicates a patent term of 356 days. The instant request for reconsideration of patent term adjustment indicates that the Office may have erred in calculating a reduction of 238 days in connection with the mailing of a decision granting a petition under 37 CFR 1.47, on August 11, 2008, three (3) months and 238

[1] PALM records show that the Issue Fee payment was received in the Office on May 2, 2011.

days after the mailing of a Notice to File Missing Parts of Nonprovisional Application, mailed September 17, 2007.

The MPEP 2732 provides:

> 37 CFR 1.704(c)(7) establishes submission of a reply having an omission (37 CFR 1.135(c)) as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Submitting a reply having an omission requires the Office to issue an action under 37 CFR 1.135(c) and await and process the applicant's reply to the action under 37 CFR 1.135(c) before the initial reply (as corrected) can be treated on its merits. In addition, 37 CFR 1.704(c)(7) provides that in such a case the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed. The reference to 37 CFR 1.135(c) is parenthetical because 37 CFR 1.704(c)(7) is not limited to Office actions under 37 CFR 1.135(c) but applies when the Office issues any action or notice indicating that a reply has an omission which must be corrected: e.g., (1) a decision on a petition under 37 CFR 1.47 dismissing the petition as lacking an item necessary to grant the petition; or (2) a notice indicating that the computer readable format sequence listing filed in reply to a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (PTO-1661) does not comply with 37 CFR 1.821 et seq. (Emphasisadded).

Office records confirm that a Notice to File Missing Parts of Nonprovisional Application was mailed September 17, 2007. Applicant timely filed a reply to the Notice, including a petition under 37 CFR 1.47, and an unexecuted oath/declaration, on November 30, 2007. The petition, however, was not grantable. Applicant was so notified in a decision dismissing the petition mailed May 8, 2008. Accordingly, the period of reduction, beginning on the day after the date the reply having an omission was filed, November 30, 2007, and ending on the date that the reply or other paper correcting the omission was filed, July 10, 2008, is 223 days, not 238 days.

In view thereof, as of the time of allowance, the application is entitled to an overall patent term adjustment of three hundred seventy-one (371) days, subject to any terminal disclaimer.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

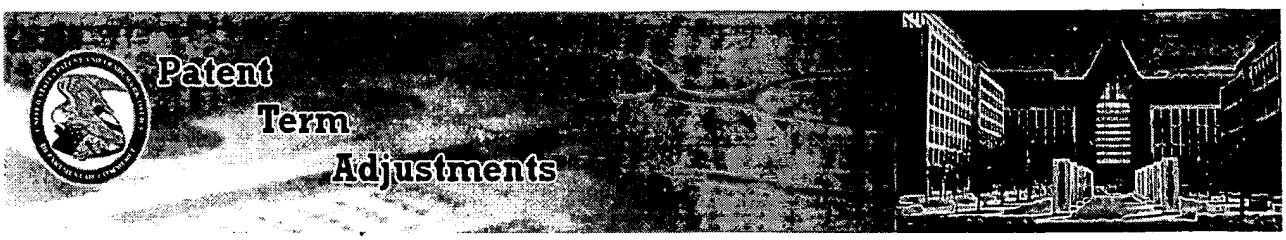
The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations



PTA/PTE Information Patent Term Adjustment Patent Term Extension

Application Number*: 11850309 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11850309

Application Filing Date	09/05/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	642
A Delays	642	PTO Manual Adjustment	15
B Delays	0	Applicant Delay (APPL)	286
C Delays	0	Total PTA (days)	371

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
97	10/11/2011		P028	Adjustment of PTA Calculation by PTO	15		0
95	10/11/2011		P025	Record a Petition Decision of Granted for Patent Term Adjustment after Allowance			0
76	07/27/2011		MN/=.	Mail Notice of Allowance			0
75	07/23/2011		OAR	Office Action Review			0
74	07/23/2011		OAR	Office Action Review			0
73	07/23/2011		IREV	Issue Revision Completed			0
72	07/23/2011		DVER	Document Verification			0
71	07/23/2011		N/=.	Notice of Allowance Data Verification Completed			0
70	07/23/2011		DOCK	Case Docketed to Examiner in GAU			0
67	07/19/2011		EX.R	Reasons for Allowance			0
66	07/19/2011		CNTA	Allowability Notice			0
62	07/11/2011		FWDX	Date Forwarded to Examiner			0
61	07/06/2011		A.NE	Amendment after Final Rejection			0
60	05/06/2011		ELC_RVW	Electronic Review			0
59	05/06/2011		EML_NTF	Email Notification			0
58	05/06/2011		MCTFR	Mail Final Rejection (PTOL - 326)			0
57	05/03/2011		CTFR	Final Rejection			0
56	03/29/2011		IDSC	Information Disclosure Statement considered			0
55	03/29/2011	02/09/2011	M844	Information Disclosure Statement (IDS) Filed		48	52
54	03/29/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
53	02/25/2011		FWDX	Date Forwarded to Examiner			0
52	02/09/2011		A...	Response after Non-Final Action			0
51	11/10/2010		ELC_RVW	Electronic Review			0
50	11/10/2010		EML_NTF	Email Notification			0
49	11/10/2010		MCTNF	Mail Non-Final Rejection			0
48	11/07/2010		CTNF	Non-Final Rejection			0
47	10/06/2010		ELC_RVW	Electronic Review			0
46	10/06/2010		EML_NTF	Email Notification			0
45	10/06/2010		MPEN	Mail Pre-Exam Notice			0
43	09/15/2010		FWDX	Date Forwarded to Examiner			0
42	09/09/2010		ELC.	Response to Election / Restriction Filed			0
40	08/09/2010		ELC_RVW	Electronic Review			0
39	08/09/2010		EML_NTF	Email Notification			0
37	08/09/2010	11/05/2008	MCTRS	Mail Restriction Requirement	642		0.5
36	08/05/2010		CTRS	Restriction/Election Requirement			0
44	08/02/2010		IDSC	Information Disclosure Statement considered			0
41	08/02/2010		M844	Information Disclosure Statement (IDS) Filed			0
38	08/02/2010		WIDS	Information Disclosure Statement (IDS) Filed			0

31	07/22/2010		DOCK	Case Docketed to Examiner in GAU		0
30	05/06/2010		DOCK	Case Docketed to Examiner in GAU		0
29	03/16/2010		DOCK	Case Docketed to Examiner in GAU		0
28	03/06/2009		DOCK	Case Docketed to Examiner in GAU		0
27	03/06/2009		TI1052	Decision Made by Classification Division		0
26	03/06/2009		TI1054	Request for Classification Division Decision		0
25	03/05/2009		CLSS	CASE CLASSIFIED BY OIPE		0
24	12/22/2008		TI1050	Transfer Inquiry to GAU		0
21	12/13/2008		TSSCOMP	IFW TSS Processing by Tech Center Complete		0
19	11/28/2008		PG-ISSUE	PG-Pub Issue Notification		0
18	08/26/2008		OIPE	Application Dispatched from OIPE		0
17	08/20/2008		PGPC	Sent to Classification Contractor		0
16	08/20/2008		FLRCPT.U	Filing Receipt - Updated		0
15	08/20/2008		COMP	Application Is Now Complete		0
14	08/11/2008	12/17/2007	ADDFLFEE	Additional Application Filing Fees	238	5
13	08/11/2008		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic		0
12	08/11/2008		MPTGR	Mail-Petition Decision - Granted		0
11	08/11/2008		PTGR	Petition Decision - Granted		0
10	07/10/2008		PET.	Petition Entered		0
9	05/08/2008		MPTDI	Mail-Petition Decision - Dismissed		0
8	05/08/2008		PTDI	Petition Decision - Dismissed		0
7	11/30/2007		PET.	Petition Entered		0
34	09/28/2007		IDSC	Information Disclosure Statement considered		0
23	09/28/2007		RCAP	Reference capture on IDS		0
22	09/28/2007		M844	Information Disclosure Statement (IDS) Filed		0
20	09/28/2007		RQPR	Request for Foreign Priority (Priority Papers May Be Included)		0
6	09/28/2007		WIDS	Information Disclosure Statement (IDS) Filed		0
5	09/17/2007		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned		0
4	09/06/2007		L128	Cleared by L&R (LARS)		0
3	09/06/2007		L198	Referred to Level 2 (LARS) by OIPE CSR		0
2	09/05/2007		SCAN	IFW Scan & PACR Auto Security Review		0
1	09/05/2007		IEXX	Initial Exam Team nn		0
0.5	09/05/2007		EFILE	Filing date		0

Export to: Excel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/12/2011

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/858357 Patent No.: 7951962 B2

CofC mailroom date: 11/30/2011

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: _____

/Janet L. Andres/ — **SPE**

1625 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CONLEY ROSE, P.C.
DAVID A. ROSE
P. O. BOX 3267
HOUSTON TX 77253-3267

MAILED

AUG 2 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Howard J. Alexander	:	DECISION ON PETITION
Application No. 11/850,381	:	TO WITHDRAW
Filed: September 5, 2007	:	FROM RECORD
Attorney Docket No. 2354-00103 TJF	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2010.

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 Thaddeus J. Faleski on behalf of all attorneys of record who are associated with Customer No. 23505.

All attorneys/agents associated with Customer Number 23505 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the applicant at the address indicated below.

Currently, there is an outstanding Office action mailed July 22, 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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Howard J. Alexander
P.O. Box 921
Highlands, TX 77562

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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Colin P. Abrahams
Suite 400
5850 Canoga Avenue
Woodland Hills CA 91367

MAILED

MAR 16 2011

OFFICE OF PETITIONS

In re Application of	:	
Sam S. Djang	:	
Application No. 11/850,388	:	DECISION ON PETITION
Filed: September 5, 2007	:	
Attorney Docket No. 1470-101.US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 10, 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 January 11, 2009. A Notice of Abandonment was mailed on May 12, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3727 for appropriate action by the Examiner in the normal course of business on the reply received January 11, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COLIN P. ABRAHAMS
SUITE 400
5850 CANOGA AVENUE
WOODLAND HILLS CA 91367

MAILED

AUG 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Sam S. DJANG	:	
Application No. 11/850,388	:	DECISION ON PETITION
Filed: September 05, 2007	:	TO WITHDRAW
Attorney Docket No. **1470-101.US**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 03, 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 Colin Abrahams on behalf of all attorneys of record who are associated with customer No. 23390. All attorneys/agents associated 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 Sam Djang at the address indicated below.

There is an outstanding Office action mailed June 03, 2011 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **SAM DJANG**
15424 NORDOFF STREET
NORTH HILLS, CA 91343

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

ONE LLP
4000 MACARTHUR BLVD., SUITE 1100
NEWPORT BEACH, CA 92660

In re Application of AnnMarie Hipsley, et al. Application No. 11/850,407 Filed: September 5, 2007 Attorney Docket No.: 200400-2US	: : : : :	ON PETITION

This is a decision in response to the petition, filed August 25, 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 4, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 5, 2009. A Notice of Abandonment was mailed on October 2, 2009. On August 25, 2010, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

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 August 25, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application is being referred to Technology Center AU 3769 for appropriate action by the Examiner in the normal course of business on the amendment received August 25, 2010.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 24, 2011

TO SPE OF : ART UNIT 2841 SPE.

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/850,540 Patent No.: 8,006,394 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Should the claims be amended as requested by applicant?
See COCIN dated 10-12-2011

Antonio Johnson

Certificates of Correction Branch

(571)272-0483 Fax – (571)270-9846

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE _____ **Art Unit** 2856

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FISH & RICHARDSON P.C. (TC)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
MAR 16 2012
OFFICE OF PETITIONS

In re Application of	:	
He et al.	:	DECISION ON APPLICATION
Application No. 11/850,550	:	FOR
Filed: September 5, 2007	:	PATENT TERM ADJUSTMENT
Atty Docket No. 20436-007001	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)," filed February 16, 2012. Applicants request that the initial determination of patent term adjustment be corrected from ninety-five (95) days to eighty-three (83) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is eighty-three (83) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 8, 2012, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 95 days. On February 16, 2012, applicants timely submitted the instant request for reconsideration of patent term. Applicants request correction of the PTA to 83 days. Applicants disclose that the Office erred in calculating the reduction associated with filing of a reply to the August 2, 2010 final Office action because an incorrect receipt date was accorded to their reply. In addition, applicants disclose the Office erroneously entered a 3 day adjustment in connection with the mailing of a notice of allowance on February 8, 2012, after applicants filed a RCE on November 22, 2011. Applicants assert

no adjustment is warranted in connection with the mailing of the notice of allowance on February 8, 2012.

Applicants' arguments have been considered and found persuasive.

37 CFR 1.704(b) provides that an applicant shall be deemed to have failed to engage in reasonable efforts to conclude prosecution 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.

A final Office action was mailed on August 2, 2010. On December 1, 2010, not November 22, 2010 as entered in Office databases, applicants filed a RCE. Therefore, the reduction begins on November 3, 2010, the day after three months after the final Office action was mailed, and ends on December 1, 2010, the date the RCE was filed. Accordingly the period of reduction of 20 days is being removed and a period of reduction of 29 days is being entered.

The Office concurs that it was erroneously charged with a 3 day adjustment in connection with the mailing of a notice of allowance on February 8, 2012.

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;

In this instance, a RCE was filed on November 22, 2011 and the Office took action in response on February 8, 2012 by mailing a notice of allowance. As this was within four months of the filing of the RCE there was no Office delay within the meaning of the rules. The period of adjustment of 3 days is being removed.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is **eighty-three (83) days**

(337 (308 + 29) days of Office delay minus 254 (122 + 12 + 29 + 91) days of Applicant delay).

The application is being forwarded to the Office of Data Management for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PTA calculation

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11850550 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11850550

Application Filing Date	09/05/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	340
A Delays	340	PTO Manual Adjustment	-12
B Delays	0	Applicant Delay (APPL)	245
C Delays	0	Total PTA (days)	83

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
130	03/09/2012		P028	Adjustment of PTA Calculation by PTO		12	0
119	02/08/2012	02/05/2012	MN/=.	Mail Notice of Allowance	3		100
118	02/06/2012		OAR	Office Action Review			0
117	02/06/2012		OAR	Office Action Review			0
116	02/06/2012		IREV	Issue Revision Completed			0
115	02/06/2012		DVER	Document Verification			0
114	02/06/2012		N/=.	Notice of Allowance Data Verification Completed			0
113	02/06/2012		DOCK	Case Docketed to Examiner in GAU			0
111	02/01/2012		CNTA	Allowability Notice			0
110	11/23/2011		FWDX	Date Forwarded to Examiner			0
107	11/23/2011		ABN9	Disposal for a RCE / CPA / R129			0
109	11/22/2011		AMPR	RCE- AF Processed			0
106	11/22/2011		BRCE	Workflow - Request for RCE - Begin			0
105	10/24/2011		EML_NTR	Email Notification			0
104	10/24/2011		MCTAV	Mail Advisory Action (PTOL - 303)			0
103	10/12/2011		OAR	Office Action Review			0
102	10/12/2011		CTAV	Advisory Action (PTOL-303)			0
101	10/06/2011		FWDX	Date Forwarded to Examiner			0
100	10/05/2011		A.NE	Amendment after Final Rejection			0
99	09/21/2011		ELC_RVW	Electronic Review			0
98	09/21/2011		EML_NTF	Email Notification			0
96	09/21/2011		MCTFR	Mail Final Rejection (PTOL - 326)			0
97	09/19/2011		LET.	Miscellaneous Incoming Letter			0
95	09/15/2011		OAR	Office Action Review			0
94	09/14/2011		CTFR	Final Rejection			0
93	08/19/2011		EML_NTR	Email Notification			0
92	08/19/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
91	08/16/2011		OAR	Office Action Review			0
90	08/16/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
89	07/26/2011		FWDX	Date Forwarded to Examiner			0
88	07/07/2011	04/07/2011	A...	Response after Non-Final Action		91	84
87	07/07/2011		XT/G	Request for Extension of Time - Granted			0
112	01/30/2011		EXIE	Interview Summary - Examiner Initiated			0
86	01/10/2011		ELC_RVW	Electronic Review			0
85	01/07/2011		EML_NTF	Email Notification			0
84	01/07/2011		MCTNF	Mail Non-Final Rejection			0
83	01/04/2011		CTNF	Non-Final Rejection			0
82	12/07/2010		FWDX	Date Forwarded to Examiner			0
79	12/07/2010		ABN9	Disposal for a RCE / CPA / R129			0
81	12/01/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
80	12/01/2010		RCEX	Request for Continued Examination (RCE)			0
78	12/01/2010		XT/G	Request for Extension of Time - Granted			0
77	12/01/2010		BRCE	Workflow - Request for RCE - Begin			0
108	11/22/2010	11/02/2010	RCEX	Request for Continued Examination (RCE)		20	66
76	10/13/2010		EML_NTR	Email Notification			0
75	10/13/2010		MCTAV	Mail Advisory Action (PTOL - 303)			0
74	10/06/2010		CTAV	Advisory Action (PTOL-303)			0
73	10/02/2010		FWDX	Date Forwarded to Examiner			0
72	09/30/2010		A.NE	Amendment after Final Rejection			0
71	09/27/2010		EML_NTR	Email Notification			0
70	09/27/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
69	09/21/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
68	08/02/2010		ELC_RVW	Electronic Review			0
67	08/02/2010		EML_NTF	Email Notification			0
66	08/02/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0

65	07/29/2010		CTFR	Final Rejection			0
64	07/19/2010		IDSC	Information Disclosure Statement considered			0
62	07/19/2010	07/07/2010	M844	Information Disclosure Statement (IDS) Filed		12	55
61	07/19/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
63	07/13/2010		IDSC	Information Disclosure Statement considered			0
60	07/13/2010		RCAP	Reference capture on IDS			0
59	07/13/2010		M844	Information Disclosure Statement (IDS) Filed			0
58	07/13/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
56	07/10/2010		FWDX	Date Forwarded to Examiner			0
55	07/07/2010		A...	Response after Non-Final Action			0
54	04/07/2010		ELC_RVW	Electronic Review			0
53	04/07/2010		EML_NTF	Email Notification			0
52	04/07/2010	03/09/2010	MCTNF	Mail Non-Final Rejection	29		41
51	04/01/2010		CTNF	Non-Final Rejection			0
50	03/31/2010		EML_NTR	Email Notification			0
47	03/23/2010		MPTGR	Mail-Petition Decision - Granted			0
46	03/22/2010		PTGR	Petition Decision - Granted			0
42	12/19/2009		FWDX	Date Forwarded to Examiner			0
41	11/09/2009		ELC.	Response to Election / Restriction Filed			0
40	11/09/2009		XT/G	Request for Extension of Time - Granted			0
39	09/09/2009		ELC_RVW	Electronic Review			0
38	09/09/2009		EML_NTF	Email Notification			0
35	09/09/2009	11/05/2008	MCTRS	Mail Restriction Requirement	308		0.5
34	09/03/2009		CTRS	Restriction/Election Requirement			0
33	08/28/2009		DOCK	Case Docketed to Examiner in GAU			0
32	08/20/2009		TI1050	Transfer Inquiry to GAU			0
31	08/17/2009		CLSS	CASE CLASSIFIED BY OIPE			0
30	06/11/2009		TI1050	Transfer Inquiry to GAU			0
44	02/06/2009		IDSC	Information Disclosure Statement considered			0
37	02/06/2009		RCAP	Reference capture on IDS			0
36	02/06/2009		M844	Information Disclosure Statement (IDS) Filed			0
27	02/06/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
26	01/24/2009		CLSS	CASE CLASSIFIED BY OIPE			0
25	01/10/2009		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
22	11/20/2008		TI1050	Transfer Inquiry to GAU			0
45	11/17/2008		PET.	Petition Entered			0
29	11/17/2008		C602	Oath or Declaration Filed (Including Supplemental)			0
21	10/14/2008		EML_NTR	Email Notification			0
20	09/16/2008		MPTDI	Mail-Petition Decision - Dismissed			0
19	09/15/2008		PTDI	Petition Decision - Dismissed			0
18	09/10/2008		OIPE	Application Dispatched from OIPE			0
17	08/12/2008		PGPC	Sent to Classification Contractor			0
16	08/12/2008		FLRCPT.U	Filing Receipt - Updated			0
15	08/12/2008		COMP	Application Is Now Complete			0
28	07/03/2008		C602	Oath or Declaration Filed (Including Supplemental)			0
14	07/03/2008	03/03/2008	ADDFLFEE	Additional Application Filing Fees		122	9
13	07/03/2008		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
12	07/03/2008		CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems			0
11	07/03/2008		PET.	Petition Entered			0
43	02/01/2008		IDSC	Information Disclosure Statement considered			0
24	02/01/2008		M844	Information Disclosure Statement (IDS) Filed			0
23	02/01/2008		RCAP	Reference capture on IDS			0
10	02/01/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
9	12/03/2007		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
8	12/03/2007		FLRCPT.O	Filing Receipt			0
6	11/08/2007		L128	Cleared by L&R (LARS)			0
5	09/06/2007		L198	Referred to Level 2 (LARS) by OIPE CSR			0
4	09/06/2007		CLSS	CASE CLASSIFIED BY OIPE			0
7	09/05/2007		NPRQ	PGPubs nonPub Request			0
3	09/05/2007		SCAN	IFW Scan & PACR Auto Security Review			0
2	09/05/2007		NPRQ	PGPubs nonPub Request			0
1	09/05/2007		IEXX	Initial Exam Team nn			0
0.5	09/05/2007		EFILE	Filing date			0

Export to: Excel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/9/10 Paper No.: ——

TO SPE OF : ART UNIT 1797

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/850581 Patent No.: 7670588 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

08/19/10

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/850,597	09/05/2007	Gregory A. Smith	250089.497	7805

500 7590 09/15/2010
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

EXAMINER
GERIDO, DWAN A

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
09/15/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SEP 15 2010

el

Mailed :	:	
In re application of	:	
Gregory A. Smith	:	DECISION ON
Serial No. 11/850,597	:	PETITION
Filed: September 05, 2007	:	

For: IMPEDANCE SYSTEMS, DEVICES, AND METHODS FOR EVALUATING IONTOPHORETIC PROPERTIES OF COMPOUNDS

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed October 08, 2009 and made final in the office action mailed March 08, 2010.

On October 08, 2009, a two way restriction requirement was made by the examiner. The examiner took the position that the groupings of claims were related as process and apparatus for its practice. The mailed restriction requirement also included a species requirement. Applicant traversed the restriction and species requirements in a response filed November 04, 2009. The examiner repeated the restriction and species requirements in an office action mailed March 08, 2010 and made the restriction and species requirements final.

On June 04, 2010, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement. The petition does not address the species requirement as the petition was also filed with an amendment cancelling all claims directed to the non-elected species.

Applicant's position for the withdrawal of the restriction requirement is that the Office has failed to establish serious search burden.

DECISION

Section 803 of the MPEP states:

803 Restriction - When Proper

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.

In making the restriction final, the examiner stated that the inventions have acquired a separate status in the art in view of their different classification, wherein the invention of Group I is classified in class 436, subclass 149; and the invention of Group II is classified in class 422, subclass 82.01. The invention of Group I is drawn to a method of screening candidate drugs, and the invention of Group II is drawn to a system for evaluating a candidate for iontophoretic drug delivery. In the instant case, the examiner used the different classification for each group of claims to evidence that the inventions have acquired separate status in the art, and that search and examination of inventions that have acquired separate status in the art would impose a serious burden on the examiner. The position of the examiner is reasonable.

In the filed petition, it is noted that Applicant took issue with the assignment of the apparatus claims to class 422, subclass 82.01. Applicant argued that the examiner failed to establish serious search burden because the examiner has incorrectly classified the apparatus claims to class 422, subclass 82.01. Applicant continued by arguing that class 422 is directed to disinfecting, deodorizing, preserving or sterilizing chemical apparatus or processes; none of which is encompassed by the claimed apparatus.

In response to Applicant's argument, it appears that Applicant has misconstrued the arts encompassed by Class 422. Class 422 encompasses i) chemical apparatus, and ii) process of disinfecting, deodorizing, preserving or sterilizing. And, subclass 82.01 encompasses chemical apparatus that is an analyzer, structured indicator or manipulative laboratory device that has a means for analyzing liquid or solid sample, wherein the analysis conducted includes measuring electrical property. Thus, with the proper interpretation of the arts encompassed by class 422, subclass 82.01, it is found that the examiner's assignment of the apparatus claims to class 422, subclass 82.01 is reasonable.

Additionally, Applicant argued that even if the apparatus claims have a different class/subclass than that of the method claims, it appears that class 436, subclass 149 would have to be search in examination of the apparatus.

In response to Applicant's argument, while a search of the two groups of claims would be overlapping, additional searching would be required for the non-elected group. Such a search would be a serious burden on the examiner because the examiner would have to search two distinct inventions. A search and examination of more than one distinct invention would necessarily be a serious burden on the examiner.

Accordingly, the petition to withdraw the restriction requirement is **DENIED**.

/W. GARY JONES/
W. Gary Jones, Director
Technology Center 1700
Chemical and Materials Engineering

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED

SEP 27 2011

OFFICE OF PETITIONS

BiPar Sciences Inc. c/o Morrison & Foerster LLP
755 Page Mill Road
Palo Alto CA 94304

In re Patent No. 7,994,222
Issued: August 9, 2011
Application No. 11/850,624
Filed: September 5, 2007
Dkt. No.: 658142000400

: 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 21, 2011 requesting that the patent term adjustment be increased from 735 days to 779 days.

The request for reconsideration of the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

The above-identified application issued as U.S. Pat. No. 7,994,222 on August 9, 2011. The patent issued with a patent term adjustment of 735 days. The instant application for patent term adjustment was timely filed September 21, 2011. Patentees contest the reduction of 44 days assessed in connection with submissions filed June 27, 2011.

On June 27, 2011, applicants filed, *inter alia*, a request for corrected filing receipt. Such request, filed after the Notice of Allowance has been given, is deemed a failure to engage in reasonable efforts to conclude prosecution or processing within the meaning of 37 CFR 1.704(c)(10). However, review of the record reveals a miscalculation in the period of reduction. The period of reduction commenced June 27, 2011, the date that the post-allowance submission was filed, and ended four days later on June 30, 2011, the date that the corrected filing receipt was mailed in response thereto. See, 37 CFR 1.704(c)(10)(i).

In view thereof, the patent is entitled to an overall adjustment of 775 days (812 days pursuant to 37 CFR 1.703 – 37 days pursuant to 37 CFR 1.704).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See, 37 CFR 1.323(a)(4).

Receipt is hereby acknowledged of the required $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 775 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,994,222

DATED : August 9, 2011 **DRAFT**

INVENTOR(S) : Ossovskaya, 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 735 days

Delete the phrase "by 735 days" and insert -- by 775 days --

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JAN 27 2012
OFFICE OF PETITIONS

BiPar Sciences Inc. c/o
Morrison & Foerster LLP
755 Page Mill Road
Palo Alto CA 94304

In re Application of
Moore et al.
Application No. 11/850,626
Filed: September 5, 2007
Attorney Dkt No. 658142000300
For: TREATMENT OF CANCER

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER TO 37 CFR §1.705(b)", filed December 12, 2011. Applicants request that the determination of patent term adjustment be corrected from three hundred forty-nine (349) days to three hundred ninety-two (392) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

The application for patent term adjustment is **GRANTED**.

Applicants dispute the 43 day reduction for the submission of supplemental responses on March 30, 2010 and April 14, 2010. Applicants contend the supplemental responses were requested by the examiner thus the 43 day reduction should be removed.

A review of the record shows that the 43 day reduction for the submission of the supplemental response in the form of a March 30, 2010 and April 14, 2010 was not warranted. 37 CFR §1.704(c)(8) provides that a period of reduction is entered for:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the

following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

In this instance, the submission of the March 30, 2010 and April 14, 2010 supplemental responses does not constitute a failure to engage in reasonable efforts to conclude prosecution. Accordingly, the 43 day reduction will be removed.

Applicants' delay prior to the mailing of the Notice of Allowance is zero (0) days. Office delay prior to the mailing of the Notice of Allowance is three hundred ninety-two (392) days.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is three hundred ninety-two (392) days.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney Advisor
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11850626 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11850626

Application Filing Date	09/05/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	392
A Delays	392	PTO Manual Adjustment	43
B Delays	0	Applicant Delay (APPL)	43
C Delays	0	Total PTA (days)	392

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
118	01/26/2012		P028	Adjustment of PTA Calculation by PTO	43		0
108	09/16/2011	05/27/2011	MN/=.	Mail Notice of Allowance	112		95
107	09/12/2011		OAR	Office Action Review			0
106	09/12/2011		OAR	Office Action Review			0
105	09/12/2011		IREV	Issue Revision Completed			0
104	09/12/2011		DVER	Document Verification			0
103	09/12/2011		N/=.	Notice of Allowance Data Verification Completed			0
102	09/09/2011		EX.R	Reasons for Allowance			0
101	09/09/2011		CNTA	Allowability Notice			0
97	01/29/2011		FWDX	Date Forwarded to Examiner			0
94	01/29/2011		ABN9	Disposal for a RCE / CPA / R129			0
100	01/27/2011		IDSC	Information Disclosure Statement considered			0
99	01/27/2011		RCAP	Reference capture on IDS			0
98	01/27/2011		M844	Information Disclosure Statement (IDS) Filed			0
96	01/27/2011		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
95	01/27/2011		RCEX	Request for Continued Examination (RCE)			0
93	01/27/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
92	01/27/2011		BRCE	Workflow - Request for RCE - Begin			0
91	01/21/2011		FIDC	Finished Initial Data Capture			0
90	11/02/2010		EIDC	Export to Initial Data Capture			0
89	10/28/2010		MN/=.	Mail Notice of Allowance			0
88	10/26/2010		IREV	Issue Revision Completed			0
87	10/26/2010		DVER	Document Verification			0
86	10/26/2010		N/=.	Notice of Allowance Data Verification Completed			0
85	10/25/2010		CNTA	Allowability Notice			0
81	10/13/2010		FWDX	Date Forwarded to Examiner			0
78	10/13/2010		ABN9	Disposal for a RCE / CPA / R129			0
84	10/08/2010		IDSC	Information Disclosure Statement considered			0
83	10/08/2010		RCAP	Reference capture on IDS			0
82	10/08/2010		M844	Information Disclosure Statement (IDS) Filed			0
80	10/08/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
79	10/08/2010		RCEX	Request for Continued Examination (RCE)			0
77	10/08/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
76	10/08/2010		BRCE	Workflow - Request for RCE - Begin			0
75	07/27/2010		EIDC	Export to Initial Data Capture			0
74	07/22/2010	07/02/2010	MN/=.	Mail Notice of Allowance	20		58
73	07/21/2010		IREV	Issue Revision Completed			0
72	07/21/2010		DVER	Document Verification			0
71	07/21/2010		N/=.	Notice of Allowance Data Verification Completed			0
70	07/21/2010		DOCK	Case Docketed to Examiner in GAU			0
69	07/21/2010		CNTA	Allowability Notice			0
68	05/19/2010		FWDX	Date Forwarded to Examiner			0
65	04/20/2010		FWDX	Date Forwarded to Examiner			0
67	04/14/2010	03/02/2010	SA..	Supplemental Response		43	58
62	04/05/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
64	03/30/2010		SA..	Supplemental Response			0
61	03/29/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
59	03/23/2010		FWDX	Date Forwarded to Examiner			0
58	03/02/2010		A...	Response after Non-Final Action			0
57	12/02/2009		MCTNF	Mail Non-Final Rejection			0
56	11/20/2009		CTNF	Non-Final Rejection			0
46	11/18/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
45	11/15/2009		DOCK	Case Docketed to Examiner in GAU			0
44	10/27/2009		C.AD	Correspondence Address Change			0
41	10/27/2009		FWDX	Date Forwarded to Examiner			0

50	10/22/2009		IDSC	Information Disclosure Statement considered		0
43	10/22/2009		RCAP	Reference capture on IDS		0
42	10/22/2009	10/22/2009	M844	Information Disclosure Statement (IDS) Filed		40
40	10/22/2009		ELC.	Response to Election / Restriction Filed		0
39	10/22/2009		XT/G	Request for Extension of Time - Granted		0
38	10/22/2009		WIDS	Information Disclosure Statement (IDS) Filed		0
37	08/04/2009		DOCK	Case Docketed to Examiner in GAU		0
36	07/23/2009	11/05/2008	MCTRS	Mail Restriction Requirement	260	0.5
35	07/20/2009		CTRS	Restriction/Election Requirement		0
32	04/17/2009		DOCK	Case Docketed to Examiner in GAU		0
51	02/12/2009		IDSC	Information Disclosure Statement considered		0
34	02/12/2009		RCAP	Reference capture on IDS		0
33	02/12/2009		M844	Information Disclosure Statement (IDS) Filed		0
31	02/12/2009		WIDS	Information Disclosure Statement (IDS) Filed		0
28	09/07/2008		DOCK	Case Docketed to Examiner in GAU		0
52	08/15/2008		IDSC	Information Disclosure Statement considered		0
30	08/15/2008		M844	Information Disclosure Statement (IDS) Filed		0
29	08/15/2008		RCAP	Reference capture on IDS		0
27	08/15/2008		WIDS	Information Disclosure Statement (IDS) Filed		0
53	06/16/2008		IDSC	Information Disclosure Statement considered		0
26	06/16/2008		RCAP	Reference capture on IDS		0
25	06/16/2008		M844	Information Disclosure Statement (IDS) Filed		0
24	06/16/2008		WIDS	Information Disclosure Statement (IDS) Filed		0
21	05/01/2008		PG-ISSUE	PG-Pub Issue Notification		0
54	04/09/2008		IDSC	Information Disclosure Statement considered		0
23	04/09/2008		RCAP	Reference capture on IDS		0
22	04/09/2008		M844	Information Disclosure Statement (IDS) Filed		0
19	04/09/2008		WIDS	Information Disclosure Statement (IDS) Filed		0
18	02/28/2008		TSSCOMP	IFW TSS Processing by Tech Center Complete		0
15	02/05/2008		OIPE	Application Dispatched from OIPE		0
14	01/24/2008		PGPC	Sent to Classification Contractor		0
13	01/24/2008		FLRCPT.U	Filing Receipt - Updated		0
12	01/24/2008		COMP	Application Is Now Complete		0
11	01/16/2008		ADDFLFEE	Additional Application Filing Fees		0
10	01/16/2008		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic		0
55	12/21/2007		IDSC	Information Disclosure Statement considered		0
17	12/21/2007		RCAP	Reference capture on IDS		0
16	12/21/2007		M844	Information Disclosure Statement (IDS) Filed		0
8	12/21/2007		WIDS	Information Disclosure Statement (IDS) Filed		0
7	11/27/2007		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned		0
6	11/27/2007		FLRCPT.O	Filing Receipt		0
5	11/09/2007		L128	Cleared by L&R (LARS)		0
4	09/07/2007		L198	Referred to Level 2 (LARS) by OIPE CSR		0
3	09/07/2007		CLSS	CASE CLASSIFIED BY OIPE		0
2	09/06/2007		SCAN	IFW Scan & PACR Auto Security Review		0
1	09/05/2007		IEXX	Initial Exam Team nn		0
0.5	09/05/2007		EFILE	Filing date		0

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McDermott Will & Emery LLP
600 13th Street, NW
Washington DC 20005-3096

MAILED
JUN 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Mou-Shiung Lin	:	
Application No. 11/850,674	:	DECISION DISMISSING PETITION
Filed: September 5, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 085027-0264	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 13, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until June 13, 2011electronically at 6:16 pm, after close of business. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Petitioner is advised, that while petitions to withdraw from issue may be filed electronically to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions before 5:00 pm EST to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

Telephone inquiries should be directed to Terri Johnson 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
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BAKER & DANIELS LLP
202 South Michigan Street
Suite 1400
South Bend IN 46601

MAILED
SEP 02 2010
OFFICE OF PETITIONS

In Re application of
Mitrajyoti Deka et al.
Application No. 11/850,714
Filed: September 6, 2007
Attorney Docket No. ISP0092.1

ON PETITION

This is a decision on the petition under 37 CFR 1.59(b), filed March19, 2010 to expunge information from the above identified application.

The petition is **granted**.

Petitioner requests that the Request for Recalculation of Patent Term Adjustment, filed March 19, 2010 be expunged from the record. Petitioner states the document was erroneously filed in the wrong case and does not pertain to the above identified patent application. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application. The information was clearly intended to be filed in an unrelated application.

The expunged material has been removed from the official file.

The application is being returned to Technology Center Art Unit 1793.

Telephone inquiries relative to this decision should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON VA 20190

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Shuo Wang, et al.	:	
Application No. 11/850,762	:	NOTICE
Filed: September 6, 2007	:	
Attorney Docket No. 01640570PA	:	

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/20/11

TO SPE OF : ART UNIT: 2814

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/850,768 Patent No. 7,971,568

CofC mailroom date 12/16/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

3656
Art Unit

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Alexandria, VA 22313-1450
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SEP 02 2010

OFFICE OF PETITIONS

ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Department
P.O. Box 10064
MCLEAN VA 22102-8064

In re Application of	:	
Dieter Staiger et al.	:	
Application No. 11/850,779	:	DECISION ON PETITION
Filed: September 6, 2007	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. DE920060053US1	:	

This is a decision on the petition under 37 CFR 1.55(c), filed June 1, 2010 and supplemented on August 6, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to European Application No. EP07100194, filed January 8, 2007.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on September 6, 2007, which is after November 29, 2000 and within 12 months of January 8, 2007 (the filing date of the foreign application to which benefit is now being claimed). On August 6, 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 $1,410 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition.

This application is being referred to Technology Center AU 2825 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 matter may be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
11/850,779	09/06/2007	2825	1000	DE920060053US1	20	2

CONFIRMATION NO. 8128

CORRECTED FILING RECEIPT

44152
ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Department
P.O. Box 10064
MCLEAN, VA 22102-8064

OC000000043306123

Date Mailed: 09/01/2010

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)

Dieter Staiger, Weil im Schoenbuch, GERMANY;
Harald Huels, Horb a.N, GERMANY;

Power of Attorney: The patent practitioners associated with Customer Number 44152

Domestic Priority data as claimed by applicant

Foreign Applications
EUROPEAN PATENT OFFICE (EPO) EP07100194 01/08/2007

If Required, Foreign Filing License Granted: 09/14/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/850,779**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND TOOL FOR DESIGNING ELECTRONIC CIRCUITS ON A PRINTED CIRCUIT BOARD

Preliminary Class

716

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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DILLON & YUDELL LLP
8911 N. CAPITAL OF TEXAS HWY.,
SUITE 2110
AUSTIN, TX 78759

MAILED
APR 29 2011
OFFICE OF PETITIONS

In re Application of :
Robert R. Friedlander, et al. :
Application No. 11/850,866 : ON PETITION
Filed: September 6, 2007 :
Attorney Docket No.: END920040068US2 :

This is a decision on the petition, filed March 10, 2011, to revive the above-identified application under 37 CFR 1.137(b).

The petition is GRANTED.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 18, 2010. A Notice of Abandonment was mailed on March 10, 2011. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). On March 10, 2011, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and appeal fee of $540; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2164 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Casimir Jones, S.C.
2275 DEMING WAY, SUITE 310
MIDDLETON WI 53562

MAILED

NOV 04 2011

OFFICE OF PETITIONS

In re Patent No. 7,723,037
Issue Date: May 25, 2010
Application No. 11/850,897
Filed: September 6, 2007
Attorney Docket No. UM-30108

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 23, 2011.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney Advisor
Office of Petitions

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED
NOV 28 2011
OFFICE OF PETITIONS

In re Application of	:	
INGLE et al.	:	
Application No. 11/850,940	:	DECISION ON PETITION
Filed: 09/06/2007	:	
Attorney Docket No. 070779	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 26, 2011, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.

On January 10, 2011, the Office mailed a non-final Office action, which set a shortened statutory period for reply of three months from the mailing date of the communication. Extensions of the period for reply were permissible under 37 CFR 1.136(a). In the apparent absence of a timely filed response, the Office held the application abandoned and mailed a Notice of Abandonment on October 13, 2011.

A review of the record reveals that petitioner filed a timely reply to the non-final Office action on April 7, 2011. The Office notes that the reply indicated the correct application number and other identifying information; however, it appears that the reply was inadvertently uploaded into the wrong application, No. 12/712,715. The reply was located in the Image File Wrapper of Application No. 12/712,715, and was transferred to the correct application, No. 11/850,940. Therefore, the USPTO received the reply on April 7, 2011, but it was not timely matched with the file due to the filing in the incorrect application.

Under current Office procedure, if a paper contains sufficient information to identify the correct application and was timely received at the Office, the holding of abandonment will be withdrawn. In reviewing the papers, it is concluded that there was sufficient information thereon to associate the papers with the present application file.

For the reasons stated above, the petition is **granted**. The holding of abandonment is hereby withdrawn and the application is restored to pending status.

The matter is being referred to Technology Center Art Unit 2183.

The $1,860.00 petition fee is unnecessary and will be refunded in due course.

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

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YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA, VA 22314

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of

Olivier Braun, et al.
Application No. 11/850,989
Filed: September 6, 2007
Attorney Docket No. 0503-1108-1

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 **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because the practitioner(s) requesting the withdrawal have not certified that they (1) have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment, (2) 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, (3) have notified the client of any responses that may be due and the time frame within which the client must respond. The failure to do so may subject the practitioner to discipline. It is also noted that false certification may violate a practitioners' duty under 37 CFR 10.23(b)(4) and (b)(5).

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).

Petitioner should also 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, the request to withdraw from record does not include an acceptable current correspondence address for future communications from the Office.

Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer Number Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (Form PTO/SB/83).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone 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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PAUL D. YASGER
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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AUG 09 2010

OFFICE OF PETITIONS

In re Application of
Anthony S. Muehoff, et al.
Application No. 11/851,050
Filed: September 6, 2007
Attorney Docket No. 8337USO1

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 12, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 8, 2010, which set a shortened statutory period for reply of three (3) months. A three month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

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. 12/832,262.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

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HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

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NOV 26 2010

OFFICE OF PETITIONS

In re Application of

Didier TOUBIA, et al
Application No. 11/851,055
Filed: September 6, 2007
Attorney Docket No. 3152.003

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 27, 2010, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of Applicant Alexander Levin driver's license and passport . Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center at (571) 272-3700.

The application is being forwarded to Technology Center Art Unit 3739 for action on the merits commensurate with this decision.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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AUSTIN RAPP & HARDMAN
170 SOUTH MAIN STREET
SUITE 735
SALT LAKE CITY, UT 84101

MAILED
SEP 15 2010
OFFICE OF PETITIONS

In re Application of	:	
John M. Kowalski	:	
Application No. 11/851,077	:	DECISION GRANTING PETITION
Filed: September 6, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SLA 2266	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 14, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 31, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2611 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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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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AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Aiden FLANAGAN, et *al.*	:	
Application No. 11/851,127	:	DECISION GRANTING PETITION
Filed: September 6, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **10527-814001**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 13, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 13, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1711 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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MAY 18 2011
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FISH & RICHARDSON P.C. (TC)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,883,736 :
Issued: February 8, 2011 : DECISION ON PATENT TERM
Application No. 11/851,127 :
Filed: September 6, 2007 :
Atty. Dkt. No.: 10527-814001 :

This is a decision on the application for patent term adjustment filed April 8, 2011 requesting that the patent term adjustment be increased from 104 days to 229 days.

The request for reconsideration of the patent term adjustment (PTA) pursuant to 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,883,736 on February 8, 2011. The patent issued with a patent term adjustment of 104 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentee contests the period of adjustment of zero days accorded pursuant o 37 CFR 1.702(b) and assert that the correct period of adjustment under 37 CFR 1.702(b) is 135 days.

Petitioner's arguments have been carefully considered, but are not persuasive. The period of adjustment pursuant to 37 CFR 1.702(b) was properly calculated at zero days.

35 USC 154(b)(1)(B) states in relevant part:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including — (i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

37 CFR 1.702(b) states in relevant part:

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including: (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b).

37 CFR 1.703(b) states in relevant part:

> The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Accordingly, in the instant matter, and in compliance with the provisions of law and rules set forth above, the period of adjustment under § 1.702(b) is zero days, the period from August 13, 2010, the date that the RCE was filed, to February 8, 2011, the date that the patent issued, being excluded from the period of adjustment under 37 CFR 1.702(b).

In view thereof, no adjustment to the patent term will be made.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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SEP 23 2011

OFFICE OF PETITIONS

FISH & RICHARDSON P.C. (TC)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,883,736 :
Issued: February 8, 2011 : DECISION ON PATENT TERM
Application No. 11/851,127 :
Filed: September 6, 2007 :
Atty. Dkt. No.: 10527-814001 :

This is a decision on the request for reconsideration of decision mailed May 18, 2011 with respect to the application for patent term adjustment under 37 CFR 1.704(d) filed April 8, 2011. This request, filed July 18, 2011, is deemed timely filed within the meaning of 37 CFR 1.181(f).

RELEVANT BACKGROUND

Patentees request that a decision on this request for reconsideration of patent term adjustment be deferred or delayed until after a final decision has been rendered in Abbott Biotherapeutics Corp v. Kappos, 1:2010cv01853 (D.D.C. 2010).

The request is hereby DENIED. This decision is a final agency action within the meaning of 5 USC §704 for purposes of seeking judicial review. See, MPEP 1002.02.

The above-identified application matured into U.S. Patent No. 7,883,736 on February 8, 2011 with a revised patent term adjustment of 104 days. On May 18, 2011, a decision on patentees' application for patent term adjustment under 37 CFR 1.705(d), filed April 8, 2011, was mailed. The decision under 37 CFR 1.705(d) mailed May 18, 2011 dismissed patentees' request for increase in patent term adjustment from 104 days to 229 days.

Patentees herein request that the patent term adjustment for the above-identified patent be increased from 104 days to 229 days (189 days pursuant to 37 CFR 1.703(a) plus 125 days pursuant to 37 CFR 1.703(b) less 85 days of applicant delay pursuant to 37 CFR 1.704(b)).

Patentees maintain that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentees contend that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, patentees argue that subsequent to the filing of the request for continued examination on August 13, 2010, examination of the application closed on October 7, 2010, the date upon which the Notice of Allowance was mailed. Thus, patentees argue that no continued examination took place during the 125 day period from October 7, 2010 (the mailing date of the Notice of

Allowance) until February 8, 2011 (the date the patent was issued). As such, patentees maintain that the "B delay" should include the 125 days and be increased from zero days to 125 days. Thus, patentees conclude that the correct patent term adjustment is thus 229 days (the sum of 189 days of "A delay" and 125 days of "B delay" minus 85 days of applicant delay").

RELEVANT STATUTES

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
>
> (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
>
> (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
>
> (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
>
> (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
>
> (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

DECISION

Patentees' arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as zero days based on the application having been filed under 35 USC 111(a) on September 6, 2007 and the patent not having issued as of September 7, 2010, the day after the date that is three years after the date that the application was filed, and a request for continued examination under 132(b) having been filed on August 13, 2010. In other words, the 125-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

---

[1] Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

examination is filed to the date the patent is issued is proper. Patentees do not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentees' argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. Websters Collegiate Dictionary, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the 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

---

[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.

adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See, 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See, 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in BlackLight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See, BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See, In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See, 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37

CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See, 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See, 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

CONCLUSION

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[3] Note, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

For the above-stated reasons, a review of the petition and file wrapper of the above-identified patent reveals that the above-identified patent is not entitled to a patent term extension or adjustment of 229 days. Therefore, the petition to change the patent term adjustment indicated on the above-identified patent to 229 days is **DENIED**.

This decision may be viewed as final agency action. See, MPEP 1002.02(b).

Telephone inquiries specific to this matter should be directed to Attorney Advisor Alesia M. Brown at (571) 272-3205.

Anthony Knight
Director
Office of Petitions

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SEP 13 2011

Marjorie Downer
32354 Marquette Street
Garden City, MI 48135

In re Application of	:	
Downer, Marjorie	:	
Application No.: 11/851,134	:	*SUA SPONTE*
Filed: January 28, 2008	:	RECISSION OF NOTICE
For: PAL O'S	:	OF ABANDONMENT

A review of the application file reveals that a notice of abandonment was mailed August 22, 2011. However, applicant had already responded to the final rejection of November 23, 2010 by the filing of a request for continued examination (RCE) on April 4, 2011 along with an amendment to the claims and the requisite fees. This response is considered to be fully responsive to the final rejection of November 23, 2010. Accordingly, the notice of abandonment of August 22, 2011 was sent out in error by the Office.

In view of these facts, the abandonment of the application was clearly premature and is hereby rescinded. The application will revert to pending status.

Inquires related to this decision may be directed to Supervisory Patent Examiner Peter M. Cuomo at (571) 272-6856.

David L. Talbott, Director
Technology Center 3600
(571) 272-5150

DT/pmc: 8/26/11
LM

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BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

MAILED

AUG 17 2010

OFFICE OF PETITIONS

In re Application of
Robert Dirksen, et al.
Application No. 11/851,148
Filed: September 6, 2007
Attorney Docket No. 116686.0425

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 2010.

The request is **NOT APPROVED**.

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 whose properly became of record under 37 CFR 3.71 or, 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.

Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer Number Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (Form PTO/SB/83).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone 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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WASHINGTON, DC 20037

MAILED
OCT 05 2010
OFFICE OF PETITIONS

In re Application of
Robert Dirksen, et al.
Application No. 11/851,148
Filed: September 6, 2007
Attorney Docket No. 116686.0425

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 September 1, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because practitioners were appointed by customer number. Petitioner must withdraw in the same manner by which they were appointed. Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a Request for Customer Number Data Change (PTO/SB/124) and not a Request for Withdrawal As Attorney or Agent and Change of Correspondence Address (Form PTO/SB/83).

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).

Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for*

Customer Number Data Change (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (Form PTO/SB/83).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone 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: UNIVERSITY OF ROCHESTER
601 ELMWOOD AVENUE
BOX OTT
ROCHESTER, NY 14642

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WASHINGTON, DC 20037

MAILED

DEC 15 2010

OFFICE OF PETITIONS

In re Application of
Robert Dirksen, et al.
Application No. 11/851,148
Filed: September 6, 2007
Attorney Docket No. 116686.0425

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 25, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Michael C. Greenbaum on behalf of all attorneys of record who are associated with customer No. 27557. All attorneys/agents associated with the Customer Number 27557 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: ROBERT DIRKSEN
35 LOCKE DRIVE
PITTSFORD, NY 14534

cc: UNIVERSITY OF ROCHESTER
601 ELMWOOD AVENUE
BOX OTT
ROCHESTER, NY 14642

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/851,148	09/06/2007	Robert Dirksen	116686.0425

CONFIRMATION NO. 8757

POWER OF ATTORNEY NOTICE

27557
BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

OC000000044917531

Date Mailed: 12/14/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/25/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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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.
11/851,160	09/06/2007	Jonathan YEN	T034-P10624US	8780

33356 7590 04/13/2011
SoCAL IP LAW GROUP LLP
310 N. WESTLAKE BLVD. STE 120
WESTLAKE VILLAGE, CA 91362

EXAMINER
DANG, DUY M

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
04/13/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@socalip.com

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SoCAL IP LAW GROUP LLP
310 N. WESTLAKE BLVD. STE 120
WESTLAKE VILLAGE CA 91362

APR 13 2011

In re Application of
Yen, Jonathan *et al.*
Serial No.: 11/851,160
Filed: September 6, 2011
For: **SYSTEM AND METHOD FOR IMAGE FOG SCENE DETECTION**

DECISION ON PETITION
ACCEPTANCE OF COLOR PHOTOGRAPHS

This is a decision on the petition under 37 C.F.R. §1.84(a)(2) filed December 17, 2007, requesting acceptance of colored drawings. The petition requests that the color drawings be accepted in lieu of black and white drawings.

The petition requests that the color photographs identified in Figures 4, 5, 6 and 11a be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(b)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The *petition* is **GRANTED**.

Wellington Chin
Special Program Examiner
Technology Center 2600
Communications

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OFFICE OF PETITIONS

SEED INTELLECTUAL PROPERTY LAW GROUP, PLLC
701 FIFTH AVE.
SUITE 5400
SEATTLE, WA 98104

In re Application of	:	
Steve Konkle	:	
Application No. 11/851,191	:	DECISION ON PETITION
Filed: September 6, 2007	:	TO WITHDRAW FROM
Attorney Docket No. 480270.401	:	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 June 23, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from application where the requesting practitioners is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to the documents they file.

The request cannot be approved because a review of the file record shows that Frank Abramonte and the attorneys/agents associated with Customer Number 00500 do not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

Additionally, 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 signing inventor.

37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

Therefore, as there is currently no Statement under 37 CFR 3.73(b) with the current assignee information of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

In view of the above, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Petitioner should note that this application is abandoned for failure to respond to the outstanding Office action mailed December 29, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Innopower, Inc.
17800 Castleton Street, Suite 605
City of Industry, CA 91748

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WILLIAM D. HARE
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STE. 1, PMB 317
PRINCETON, NJ 08542-9944

MAILED

MAR 09 2011

OFFICE OF PETITIONS

In re Application of
Carlos A. Rotman, et al.
Application No. 11/851,227
Filed: September 6, 2007
Attorney Docket No. 5030.00001

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 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.

The request was signed by William Hare on behalf of all attorneys of record who are associated with this application. All attorneys/agents associated with this application have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

: The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed August 12, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/851,227	09/06/2007	Carlos A. Rotman	5030.00001

CONFIRMATION NO. 8904

POWER OF ATTORNEY NOTICE

32867
WILLIAM D. HARE
McNeely, Hare & War, LLP
66 WITHERSPOON STREET
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OC000000046269975

Date Mailed: 03/01/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/21/2011.

- 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.

/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

DATE : 04/09/12

TO SPE OF : ART UNIT 2472

SUBJECT : Request for Certificate of Correction for Appl. No.: 11851242 Patent No.: RE42600

CofC mailroom date: 03/30/12

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: **Should the changes to claim 49 be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

11/851,242

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

Hassan Kizou — SPE

2472 — 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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Decision Date : October 19,2011

In re Application of :

Shaunt Sarkissian

Application No : 11851248

Filed: 06-Sep-2007

Attorney Docket No : SRC1P002

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR.§ 1.36(b), filed October 19,2011

The request is **APPROVED**

The request was signed by Dominic M. Kotab (registration no. 42762) on behalf of all the attorneys/agents of record. All attorneys/agents of record have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 with correspondence address:

Name	Shaunt Mark Sarkissian
Name2	
Address 1	2200 Rolling Hills Road
Address 2	
City	Saratoga
State	CA
Postal Code	95070
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	11851248
Filing Date	06-Sep-2007
First Named Inventor	Shaunt Sarkissian
Art Unit	3621
Examiner Name	JAMES REAGAN
Attorney Docket Number	SRC1P002
Title	SYSTEMS, METHODS AND APPARATUSES FOR SECURE DIGITAL TRANSACTIONS

◉ Please withdraw me as attorney or agent for the above identified patent application and all the practitioners of record.

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	Shaunt Mark Sarkissian
Address	2200 Rolling Hills Road
City	Saratoga
State	CA
Postal Code	95070
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Dominic M. Kotab/
Name	Dominic M. Kotab
Registration Number	42762

UNITED STATES PATENT AND TRADEMARK OFFICE

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ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Sarkissian et al.	:	DECISION ON PETITION
Application No. 11/851,261	:	TO WITHDRAW
Filed: September 6, 2007	:	FROM RECORD
Attorney Docket No. SRC1P003	:	

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, 2010.

The request is **NOT APPROVED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted on January 28, 2010 is hereby not accepted. Petitioner has not complied with current USPTO requirements, as set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address (form PTO/SB/83). Specifically, pursuant to 37 CFR 10.40, the Office will require the practitioner(s) to certify that he, she or they have:

(1) given reasonable notice to the client, prior to the expiration of the reply period, that the practitioner(s) intends to withdraw from employment;

(2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and

(3) notified the client of any replies that may be due and the time frame within which the client must respond.

Petitioner has not complied with the above certifications.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, a Notice of Abandonment was mailed May 13, 2010 in the above-identified application.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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SEP 08 2011
OFFICE OF PETITIONS

In re Patent of Hsieh et al.	
Patent No. 7,964,700	DECISION ON REQUEST FOR
Issue Date: June 21, 2011	RECONSIDERATION OF
Application No. 11/851,301	PATENT TERM ADJUSTMENT
Filed: September 6, 2007	
Attorney Docket No. 00530-122002	
Title: INHIBITORS OF TASPASE1 PROTEASE ACTIVITY	

This is a decision on the petition filed on August 19, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one hundred ninety-six (196) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of ninety-five (95) days.

BACKGROUND

On June 21, 2011, the above-identified application matured into U.S. Patent No. 7,964,700, with a revised patent term adjustment of 182 days. On Monday, August 8, 2011, patentees 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 230. Patentees assert the Office incorrectly calculated Office delay pursuant

to 37 CFR 1.702(b). Patentees contend that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentees argue that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on February 7, 2011, thereby closing examination of the application on that date. Thus, Patentees argue no continued examination took place during the 135 day period from February 7, 2011 (the mailing date of the Notice of Allowance) until June 21, 2011 (the date the patent was issued). As such, Patentees maintain that the "B delay" should include the 135 days and be increased from 86 to 221 days.

In addition, in good faith and candor, Patentees disclose three additional periods of reduction that were not considered in the PTA calculations. Patentees disclose the Office failed to enter a 27 day reduction for the late response to the December 13, 2007 Notice to File Missing Parts of Nonprovisional Application, said late response was filed on April 9, 2008. Patentees disclose the Office failed to enter a 56 day reduction pursuant to 37 CFR 1.704(c)(8) for the supplemental reply filed on January 27, 2011, after a reply was filed. Finally, Patentees disclose the Office failed to enter a 4 day reduction pursuant to 37 CFR 1.704(c)(8) for filing a supplemental response on January 31, 2011, subsequent to a reply filed on January 27, 2011. Patentees conclude that the correct patent term adjustment is 230 days (the sum of 221 days of "A delay" and 221 days of "B delay" minus 212 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS WITH RESPECT TO B DELAY ARUGMENT

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the

Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentees' arguments with respect to the B delay calculation 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 86 days based on the application having been filed under 35 U.S.C. 111(a) on September 6, 2007 and the patent not having issued as of the day after the three year date, September 7, 2010, and a request for continued examination under 132(b) having been filed on December 12, 2010. In other words, the 135 day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was

delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentees do not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the

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[1] Pursuant to 35 U.S.C. 132(b) , 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentees' argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any

[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.

time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the

law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a

duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on December 2, 2010, and the patent issued by virtue of that

[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

request on June 21, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on February 7, 2011 and ending on June 21, 2011 is not included in calculating Office delay.

Patentees are correct that the filing of a reply on April 9, 2008 is a ground for reduction. However, the reduction is assessed pursuant to 37 CFR 1.704(c)(7) because the April 9, 2008 reply was made to correct an omission in the first reply. A Notice to File Missing Parts of Nonprovisional Application was mailed on December 13, 2007. On March 13, 2008, Applicants filed a response. However, the response was lacking, as was indicated in the Notice of Incomplete Reply, mailed March 21, 2008. On April 9, 2008, Applicants filed a full response to the December 13, 2007 Notice. Pursuant to 37 CFR 1.704(c)(7), the 27 day period is calculated beginning on the day after the date the initial reply was filed, March 14, 2008, and ending on the date that a complete reply was filed, April 9, 2008. The 27 day period of reduction is being entered.

Patentees are correct that the Office failed to enter two additional reductions pursuant to 37 CFR 1.704(c)(8).

First, Applicants filed a supplemental reply on January 27, 2011, subsequent to a reply filed on December 2, 2010. The period of adjustment should have been reduced by 56 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, December 3, 2010, and ending on the date that the supplemental reply was filed, January 27, 2011. Accordingly, a period of reduction of 56 days will be entered.

Second, Applicants filed a supplemental reply on January 31, 2011, subsequent to a reply filed on January 27, 2011. The period of adjustment should have been reduced by 4 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the previous reply was filed, January 28, 2011, and ending on the date that the supplemental reply was filed, January 31, 2011. Accordingly, a period of reduction of 4 days will be entered.

CONCLUSION

In view thereof, the patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of ninety-five (95) days, which is 221 days of A delay + 86 days of B

delay minus 212 (27 + 92 + 23 + 56 + 10 + 4) days of Applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges receipt of the required $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **ninety-five (95)** days.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,964,700 B2

DATED : **June 21, 2011** **DRAFT**

INVENTOR(S) : Hsieh et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 182 days

Delete the phrase "by 182 days" and insert – by 95 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **1-28-11**

TO SPE OF : ART UNIT **2828**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11851316** Patent No.: **7680160**

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: _____

MINSUN OH HARVEY
PRIMARY EXAMINER
SPE

2828
Art Unit