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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/851,373	09/06/2007	Lu-Yang Kao	NAUP0922USA	9182

27765 7590 11/08/2011

NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD, VA 22116

EXAMINER	
LUKE, DANIEL M	

ART UNIT	PAPER NUMBER
2813	

NOTIFICATION DATE	DELIVERY MODE
11/08/2011	ELECTRONIC

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

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

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

Patent.admin.uspto.Rcv@naipo.com
mis.ap.uspto@naipo.com

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NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD, VA 22116

In re Application of Lu-Yang Kao	:	
Appl. No.: 11/851,373	:	DECISION ON PETITION
Filed: September 6, 2007	:	UNDER 37 C.F.R. § 1.59
Attorney Docket No.: NAUP0922USA	:	
For: METHOD AND STRUCTURE FOR	:	
SIMULTANEOUSLY FABRICATING SELECTIVE	:	
FILM AND SPACER	:	

This is a response to the petition under 37 CFR 1.59(b), filed October 11, 2011, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte* Quayle action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner asserts that the invention disclosure document submitted in a third Supplemental Information Disclosure Statement, filed October 11, 2011, in accordance with MPEP § 724.02 is trade secret material, and requests that it be expunged from the record. Petitioner states that the information is trade secret material of the assignee that has not been made public and is being submitted on behalf of applicant and the assignee and commits to retain the document for the period of any patent that is issued from the above application. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits has not completed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file.

Any inquiry regarding this decision should be directed to Hien H. Phan, Quality Assurance Specialist, at (571) 272-1606.

John W. Cabeca, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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CARMEN PATTI LAW GROUP, LLC
ONE N. LASALLE STREET
44TH FLOOR
CHICAGO, IL 60602

MAILED

AUG 11 2010

OFFICE OF PETITIONS

In re Application of :
Hardy Jeske :
Application No. 11/851,387 : ON PETITION
Filed: September 6, 2007 :
Attorney Docket No. LUC-801/ALU 115237

This is a decision on the petition, filed August 5, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 6, 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 2121 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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DEC 08 2010

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 :
Rowe, et al. : DECISION ON PETITION
Application No. 11/851,416 :
Filed: September 9, 2007 :
Atty. Dkt. No.: 2006-0536.01 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 16, 2010.

The petition is **GRANTED**.

This application became abandoned October 29, 2010 for failure to timely reply to the Notice of Allowance and Issue Fee Due (Notice) mailed July 28, 2010. The Notice set a three (3) month statutory period of time for reply. Notice of Abandonment was mailed November 10, 2010.

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

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

In view thereof, this application is being forwarded to the Office of Data Management for further processing.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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DON W. BULSON (BRAI)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE - 19TH FLOOR
CLEVELAND OH 44115

MAILED

DEC 28 2010

OFFICE OF PETITIONS

In re Application of	:	
Timo Neubauer, et al.	:	
Application No. 11/851,444	:	DECISION ON PETITION
Filed: September 7, 2007	:	
Attorney Docket No. SCHWP0304USA	:	

This is a decision on the petition, filed November 2, 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 Notice of Non-Compliant Amendment mailed April 12, 2010 (Office action), which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 22, 2010.

Petitioner asserts that the Office action 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).

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

The petition fails to satisfy item 3 of the above-stated requirements. There was no master docket submitted showing all replies docketed for a date three months from the mail date of the nonreceived Notice. If no such master docket exists, it must be stated and provide other evidence such as but not limited to, the following: the application file jacket; incoming mail log, calendar, or reminder system. The evidence included with the petition appears to be limited to entries corresponding to the instant application.

Accordingly, absent the required evidence to establish nonreceipt of the Notice of April 12, 2010, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $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) 272-2991.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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DON W. BULSON (BRAI)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE - 19TH FLOOR
CLEVELAND OH 44115

MAILED

MAR 09 2011

OFFICE OF PETITIONS

In re Application of :
Timo Neubauer, et al. :
Application No. 11/851,444 : DECISION ON PETITION
Filed: September 7, 2007 :
Attorney Docket No. SCHWP0304USA :

This is a decision on the renewed petition, filed January 20, 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 Notice of Non-Compliant Amendment mailed April 12, 2010 (Office action), which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 22, 2010.

Petitioner asserts that the Office action dated April 12, 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 2612 for consideration of the amendment filed January 20, 2011.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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

ROSS PRODUCTS DIVISION OF ABBOTT LABORATORIES
DEPARTMENT 108140-RP3-2
3300 Stelzer Road
COLUMBUS OH 43219-3034

MAILED
OCT 28 2011
OFFICE OF PETITIONS

In re Application of :
Normanella T. DEWILLE et al. : ON PETITION
Application No. 11/851,473 :
Filed: September 7, 2007 :
Atty. Docket No.: 8358US01

This is a decision on the petition under 37 CFR 1.137(b), filed October 12, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Fee(s) Due mailed July 11, 2011 (Notice), which set a statutory period for reply of three (3) months. The application became abandoned October 12, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a payment of the issue and publication fees in accordance with the Notice mailed July 11, 2011, (2) a petition fee of $1860, and (3) a statement of unintentional delay. The reply to the Notice is accepted as having been unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

The application will be referred to Office of Data Management for further processing.

Robert DeWitty
Petitions Attorney
Office of Petitions

cc: Christopher M. Goff
7700 Forsyth Blvd., Suite 1800
St. Louis, MO 63105

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/851,523	09/07/2007	Rakesh M. Suri	352762	9473

25764 7590 04/11/2011

FAEGRE & BENSON LLP
PATENT DOCKETING - INTELLECTUAL PROPERTY
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

EXAMINER	
ANDERSON, GREGORY A	
ART UNIT	**PAPER NUMBER**
3773	

NOTIFICATION DATE	DELIVERY MODE
04/11/2011	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):

djohnson2@faegre.com
rhale@faegre.com
PatentDocketing@Faegre.com

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11851523	9/7/2007	SURI ET AL.	352762

FAEGRE & BENSON LLP
PATENT DOCKETING - INTELLECTUAL PROPERTY
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

EXAMINER	
GREGORY ANDERSON	
ART UNIT	**PAPER**
3773	20110405

DATE MAILED:

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

Commissioner for Patents

1. In view of the papers filed 15 July 2009, 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 Eric Manasse as an inventor.

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.

/G. A./
Examiner, Art Unit 3773

/Darwin P. Erezo/
Primary Examiner, Art Unit 3773

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/851,566	09/07/2007	John J. GOEDERS	P06934US1	9538

34082 7590 01/21/2011

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

EXAMINER	
ARYANPOUR, MITRA	

ART UNIT	PAPER NUMBER
3711	

NOTIFICATION DATE	DELIVERY MODE
01/21/2011	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):

bstills@zarleylaw.com

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Alexandria, VA 22313-1450
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ZARLEY LAW FIRM P.L.C.
CAPITAL SQUARE
400 LOCUST, SUITE 200
DES MOINES IA 50309-2350

In re Application of:
GOEDERS, JOHN J.
Serial No. 11/851,566
Filed: Sep. 7, 2007
Docket: P06934US1
Title: MULTIPLE PIECE PITCHING MOUND

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petitions filed January 5, 2011 and August 25, 2009 under 37 CFR 1.181 requesting withdrawal of drawing objection under 37 CFR 1.83(a) in the final rejection of November 19, 2010.

The petition is **Granted.**

In finding petitioner's points of argument persuasive, the requested relief is granted. It is noted that claims do not call for any structure or means to perform any "retracting" functions. Claims merely call for "retractable" wheels. In absence of any rejection of claims under the first paragraph of 35 USC 112, Fig. 2 is sufficient to show such claimed "retractable" wheels as indicated by petitioner.

The application has been forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3711 for preparation of an Examiner's answer.

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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Leydig, Voit & Mayer, Ltd
(for Huawei Technologies Co., Ltd)
Two Prudential Plaza Suite 4900
180 North Stetson Avenue
Chicago IL 60601

MAILED

NOV 3 0 2010

OFFICE OF PETITIONS

Applicant: Zhou
Appl. No.: 11/851,654
Filing Date: September 7, 2007
Title: Method and System For Extending Transmission Distance Of ADSL Signal
Attorney Docket: HW701880
Pub. No.: US 2008/0212614 A1
Pub. Date: September 4, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on November 3, 2008 for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material a error in dependent claim 3 wherein "Pmax-(30+101g (f-138)) +3.5" is misprinted as "Pmax-(30+10 1g (f-138)) +3.5".

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error noted by requestor with respect the spacing in dependent claim 3 may be an Office error, but it is not a material Office error under 37 CFR .1221(b). The error is a minor typographical error, which is clear to one reading the application, as it is printed correctly in several instances in the application. It does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent

[1]Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. Therefore, the instant request does not identify a material mistake in the publication made by the Office under 37 CFR 1.221(b).

Applicant is advised that he may want to file application papers that are clearer, as the errors are due to the quality of the text. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52 and PCT Rule 11.9(d).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/patents/process/file/efs/guidance/index.jsp

OR

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication".

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 1/6/2011

TO SPE OF : ART UNIT 1614

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/851669 Patent No.: 7842709 B2

CofC mailroom date: 12/28/2010

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: _____

ARDIN H. MARSCHEL
SUPERVISORY PATENT EXAMINER

SPE

1636
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

John J. McArdie, Jr.
Lexmark International, Inc.
Intellectual property Department
740 West New Circle Road
Lexington KY 40550

MAILED

SEP 28 2011

OFFICE OF PETITIONS

In re Application of :
Thomas Paul Maddux et al. :
Application No. 11/851,740 : ON PETITION
Filed: September 7, 2007 :
Attorney Docket No. **2006-0475.02** :

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

The above-identified application became for failure s to timely pay the issue and publication fees on or before May 3, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed February 3, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 4, 2011.

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

Petitioner asserts that docketing error was the cause of delay in acting to prevent the application from becoming abandoned. A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that: (1) the error was the cause of the delay at issue; (2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; (3) and the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

Specifically, petitioner asserts that the delay occurred due to a docketing error which resulted from practitioner's failure to properly docket the response due.

An adequate showing requires statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts, as they know them. Petitioner must supply a thorough explanation of the docketing and call up system in use and must identify the type of records kept and the person responsible for the maintenance of the system. This showing must include copies mail ledger, docket sheets, file wrappers and such other records as may exist which would substantiate an error in use of the firms docketing and invoicing system, and include an indication as to why the system failed in this instance to provide adequate notice that a reply was due. Petitioner must also supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

The USPTO must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and petitioner is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987); California, supra. Specifically, petitioner's delay caused by the mistakes or omissions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133. See Haines v. Quigg, supra; Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

Petitioner may wish to request that the holding of abandonment be withdrawn for non-receipt of an Office communication. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See* MPEP 711.03(c), under the subheading "**Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action**;" and 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

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

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has

been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,860 petition fee.

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

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

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

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

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

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

/dab/
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

John J. McArdie, Jr.
Lexmark International, Inc.
Intellectual property Department
740 West New Circle Road
Lexington KY 40550

MAILED

DEC 05 2011

OFFICE OF PETITIONS

In re Application of :
Thomas Paul Maddux et al. :
Application No. 11/851,740 : ON PETITION
Filed: September 7, 2007 :
Attorney Docket No. **2006-0475.02** :

This is a decision on the renewed petition, filed October 12, 2011, under 37 CFR 1.137(a) to revive the above-identified application.

The above-identified application became for failure s to timely pay the issue and publication fees on or before May 3, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed February 3, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 4, 2011.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(a) 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 $540; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

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

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

/dab/
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHRISTOPHER & WEISBERG, P.A.
200 EAST LAS OLAS BOULEVARD
SUITE 2040
FORT LAUDERDALE FL 33301

MAILED
SEP 20 2011
OFFICE OF PETITIONS

In re Application of :
Krishna et al. :
Application No. 11/852020 : ON PETITION
Filing Date: 09/11/2007 :
Attorney Docket Number: 1689-11DIV1:

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

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 27, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 28, 2011.

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

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

This application is being referred to Technology Center AU 3775 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 10 2010

OFFICE OF PETITIONS

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

In re Application of	:	
Moon-Won Kim	:	
Application No. 11/852,055	:	DECISION GRANTING PETITION
Filed: September 7, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3449-0947PUS1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 10, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 6, 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 3744 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/852,102	09/07/2007	Adam I. Riker	19024-0007001	1540

26161 7590 12/13/2010
FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER	
AEDER, SEAN E	

ART UNIT	PAPER NUMBER
1642	

NOTIFICATION DATE	DELIVERY MODE
12/13/2010	ELECTRONIC

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

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

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

PATDOCTC@fr.com

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,615,349
Patented: November 10, 2009

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

Adam I. Riker, Mobile, AL (US); Steven Alan Enkemann, Lutz, FL (US); Jaime Matta, Ponce (PR)

Misook Yu
Supervisory Patent Examiner
Art Unit 1642
Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : August 12, 2011

TO SPE OF : ART UNIT 3767

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/852110 Patent No.: 7935076 B2

CofC mailroom date: 7-18-11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

Magdalene Talley
Certificates of Correction Branch
571-272-0423 _____

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

/Kevin C. Sirmons/ AU 3767, SPE
Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MAILED

JUN 20 2011

OFFICE OF PETITIONS

AMGEN INC
LAW DEPARTMENT
1201 AMGEN COURT WEST
SEATTLE WA 98119

In re Application of :
Galibert, et al. :
Application No. 11/852,123 : DECISION ON
Filed: September 7, 2011 : PETITION
Attorney Docket No. 3467-US-DIV :

This is in response to the petition to revive under 37 CFR 1.137(b), filed June 9, 2011, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The above application was held abandoned for failure to timely file a "reply" in response to the Notice of Allowability, mailed September 21, 2010. This Notice set a statutory period for reply of three months. However, the Notice did not indicate that any reply was due from applicant (e.g. corrected drawings, a substitute declaration, etc.). Moreover, the Notice of Allowability was not accompanied by a Notice of Allowance. Nevertheless, the Office mailed a Notice of Abandonment on April 6, 2011, indicating that the application was abandoned because no "reply" had been received.

It is obvious from reviewing the file that the Notice of Abandonment was mailed in error. Moreover, the Notice of Allowability appears to have been mailed in error insofar as it was not accompanied by a Notice of Allowance.

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

Given the basis for granting this petition, consideration of the petition under 37 CFR 1.137(b) was unnecessary. As such, the $1620 petition fee has been refunded to Deposit Account No. 01-0519.

The matter is being forwarded to Group Art Unit 1644 for consideration of the RCE, filed September 16, 2010.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Law Office of Scott C Harris Inc
PO Box 1389
Rancho Santa Fe CA 92067

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of :
Stephen Kenneth Bailey et al. :
Application No. 11/852,135 : ON PETITION
Filed: September 7, 2007 :
Attorney Docket No. **Ubiq-MovieEditing014** :

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

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed September 18, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 19, 2007.

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

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for period (3).

As to period (3), petitioner was informed in the previous decision of October 27, 2008, that any request for reconsideration of the decision must be submitted within **TWO (2) MONTHS** from the mail date of the decision and that extensions of time can be filed also. However, here in view of the inordinate delay (almost 2 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. Therefore, petitioner must explain the delay in responding to the petition decision mailed on October 27, 2008.

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 1 year) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons responsible 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).

In view of the above the petition is hereby **DISMISSED**.

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

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

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

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

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAY 17 2011

OFFICE OF PETITIONS

Law Office of Scott C Harris Inc
PO Box 1389
Rancho Santa Fe CA 92067

In re Application of :
Stephen Kenneth Bailey et al. :
Application No. 11/852,135 : ON PETITION
Filed: September 7, 2007 :
Attorney Docket No. **Ubiq-MovieEditing014** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 20, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed September 18, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 19, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of oath or declaration filed May 3, 2010, surcharge, search fee, filing fee, and examination fee filed July 3, 2008, (2) the petition fee of $810 (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 the Office of Patent Application Processing.

JoAnne Burke
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	11852135
Filing Date	07-Sep-2007
First Named Inventor	Kenneth Bailey
Art Unit	2175
Examiner Name	DAEOO LEE
Attorney Docket Number	Ubiq-MovieEditing014
Title	Mobile Movie Editing System

◉ 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	Chris Carmichael
Address	9801 Research Drive
City	Irvine
State	CA
Postal Code	92675
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Scott C Harris/
Name	Scott C Harris
Registration Number	32030

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : January 3, 2012

In re Application of :

Kenneth Bailey

Application No : 11852135

Filed: 07-Sep-2007

Attorney Docket No : Ubiq-MovieEditing014

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 January 3, 2012

The request is **APPROVED**

The request was signed by Scott C Harris (registration no. 32030) 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	Chris Carmichael
Name2	
Address 1	9801 Research Drive
Address 2	
City	Irvine
State	CA
Postal Code	92675
Country	US

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

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

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : July 27,2011

In re Application of :

Athanasios Konstandopoulos

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11852208

Filed : 07-Sep-2007

Attorney Docket No : 01098_1033

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid 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 2856 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	11852208
Filing Date	07-Sep-2007
First Named Inventor	Athanasios Konstandopoulos
Art Unit	2856
Examiner Name	DANIEL LARKIN
Attorney Docket Number	01098_1033
Title	PARTICULATE MATTER DETECTION SENSOR

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	/Masayasu Mori/
Name	Masayasu Mori
Registration Number	47301

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

MAILED

MAR 21 2011

OFFICE OF PETITIONS

In re Application of

Matthew S. Gast, et al.
Application No. 11/852,234
Filed: September 7, 2007
Attorney Docket No. 43390-8044.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 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: TRAPEZE NETWORKS, INC.
C/O JUNIPER NETWORKS, INC
1194 NORTH MATHILDA AVENUE
SUNNYVALE, CA 94089-1206

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/852,234	09/07/2007	Matthew S. Gast	43390-8044.US01

CONFIRMATION NO. 1805

POWER OF ATTORNEY NOTICE

22918
PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

OC000000046631685

Date Mailed: 03/17/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/09/2011.

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

/amwise/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : April 22,2011

In re Application of :

Bartosz Mielczarek

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11852240

Filed : 07-Sep-2007

Attorney Docket No : LAMA130182

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

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 2611 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	11852240
Filing Date	07-Sep-2007
First Named Inventor	Bartosz Mielczarek
Art Unit	2611
Examiner Name	TED WANG
Attorney Docket Number	LAMA130182
Title	MULTI-TIERED QUANTIZATION OF CHANNEL STATE INFORMATION IN MULTIPLE ANTENNA SYSTEMS

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	/Kevan L. Morgan/
Name	Kevan L. Morgan
Registration Number	42015

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : September 1,2011

In re Application of :

Bartosz Mielczarek

Application No : 11852240

Filed : 07-Sep-2007

Attorney Docket No : LAMA130182

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed September 1,2011 , to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

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

Office of Petitions

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	11852240
Filing Date	07-Sep-2007
First Named Inventor	Bartosz Mielczarek
Art Unit	2611
Examiner Name	TED WANG
Attorney Docket Number	LAMA130182
Title	MULTI-TIERED QUANTIZATION OF CHANNEL STATE INFORMATION IN MULTIPLE ANTENNA SYSTEMS

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

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

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

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

☐ Applicant(s) status remains as SMALL ENTITY.

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

Issue Fee and Publication Fee :

Issue Fee and Publication Fee are not due.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◉ Drawing corrections and/ or other deficiencies are not required ◯ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on ◯ Drawing corrections and/ or other deficiencies are attached. ☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ◯ A sole inventor ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors. ◯ A joint inventor; all of whom are signing this e-petition. ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Kevan L. Morgan/
Name	Kevan L. Morgan
Registration Number	42015

DAC/IFW

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	11852240
Filing Date	07-Sep-2007
First Named Inventor	Bartosz Mielczarek
Art Unit	2611
Examiner Name	TED WANG
Attorney Docket Number	LAMA130182
Title	MULTI-TIERED QUANTIZATION OF CHANNEL STATE INFORMATION IN MULTIPLE ANTENNA SYSTEMS

OPAP IAP5 SEP 01 2011 PATENT & TRADEMARK OFFICE

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 :

09/02/2011 INTEFSW 00005693 11852240
01 FC:1453 1620.00 OP

Issue Fee and Publication Fee are not due.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◉ Drawing corrections and/ or other deficiencies are not required

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

○ Drawing corrections and/ or other deficiencies are attached.

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole inventor

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

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

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

Signature	/Kevan L. Morgan/
Name	Kevan L. Morgan
Registration Number	42015

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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MILLER, MATTHIAS & HULL LLP
ONE NORTH FRANKLIN STREET
SUITE 2350
CHICAGO, IL 60606

MAILED
MAY 06 2011
OFFICE OF PETITIONS

In re Application of :
Babu Padmanabhan :
Application No. 11/852,265 : DECISION ON PETITION
Filed: September 7, 2007 :
Attorney Docket No. 50116/PAT 0387 :

This is a decision on the petition, filed March 9, 20011, 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 August 16, 2010, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on March 3, 2011.

Petitioner asserts that the Office action dated August 16, 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 nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

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

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 1774 for re-mailing the Office action of August 25, 2010. The period for reply will run from the mailing date of the Office action.

/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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Paper No.

JIANQ CHYUN INTELLECTUAL
PROPERTY OFFICE
7 FLOOR-1, NO. 100
ROOSEVELT ROAD, SECTION 2
TAIPEI 100
TAIWAN

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Takashi Hasegawa	:	DECISION ON
Application No. 11/852,334	:	PETITION
Filed: September 10, 2007	:	
Atty Docket No. 19968-US-187(CA)	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed February 26, 2010 (and resubmitted March 5, 2010 with payment of the petition fee). Receipt of status inquiries on July 16, 2010 and September 2, 2010 is acknowledged.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit a corrected drawing sheet within three months of the mailing date, September 30, 2009, of the Notice of Allowability. This Office action set a three-month nonextendable statutory period for reply. No drawings having been received, the above-identified application became abandoned on December 31, 2009. A courtesy Notice of Abandonment was mailed on January 20, 2010.

The petition included the required reply[1] in the form of the corrected drawing sheet as required by the examiner's amendment; payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

[1] The Issue Fee and Publication Fee were timely paid on November 28, 2009.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RAHMAN LLC
10025 GOVERNOR WARFIELD PARKWAY SUITE 110
COLUMBIA MD 21044

MAILED

SEP 2 7 2010

OFFICE OF PETITIONS

In re Application of	:	
Oh, et al.	:	
Application No. 11/852,360	:	DECISION ON PETITION
Filed: September 10, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. CUS.5035	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed August 6, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional application No. 11/045,908.

The petition is **GRANTED**.

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

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

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

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

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

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207. 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 3733 for consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the non-provisional application set forth in the Amendment, filed August 6, 2010.

Chris Bottorff
Supervisor
Office of Petitions

Enc: Corrected Filing Receipt (3 pages)

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
11/852,360	09/10/2007	3733	425	CUS.5035	20	3

CONFIRMATION NO. 1098

CORRECTED FILING RECEIPT

83981
Rahman LLC
Mohammad Rahman
10025 Governor Warfield Parkway, Suite 110
Columbia, MD 21044

OC00000043656626

Date Mailed: 09/23/2010

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)

YoungHoon Oh, Montville, NJ;
Mahmoud F. Abdelgany, Rockaway, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 83981

Domestic Priority data as claimed by applicant

This application is a CIP of 11/045,908 01/28/2005
which claims benefit of 60/548,543 02/27/2004
and claims benefit of 60/565,658 04/27/2004

Foreign Applications

If Required, Foreign Filing License Granted: 09/20/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/852,360**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

DYNAMIC SCREW SYSTEM

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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George Willinghan, III
August Law, LLC
P.O. Box 19080
Baltimore MD 21284-9080

MAILED

DEC 12 2011

OFFICE OF PETITIONS

In re Application of :
GARBOW et al. :
Application No. 11/852,389 : DECISION ON PETITION
Filed: 09/10/2007 :
Attorney Docket No. ROC920070287US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 30, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 8, 2011, which set a shortened statutory period for reply of three (3) months. No extensions of time for response were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on May 9, 2011. A Notice of Abandonment was mailed on October 12, 2011.

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

This application is being referred to Technology Center AU 2195 for appropriate action by the Examiner on the reply received on November 30, 2011.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No.

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408 W. MAIN ST.
MARSHALLTOWN IA 50158-5759

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NOV 03 2011

OFFICE OF PETITIONS

In re Application of :
Baldrige :
Application No. 11/852,453 : DECISION ON PETITION
Filed: September 10, 2007 : PURSUANT TO
Attorney Docket No. 1101158-001 : 37 C.F.R. § 1.137(B)
Title: TEMPERATURE CHANGING DEVICE :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed October 6, 2011, to revive the above-identified application.

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

The above-identified application became abandoned for failure to reply in a timely manner to a non-final Office action, mailed November 9, 2009, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on February 10, 2010. A notice of abandonment was mailed on May 18, 2010.

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

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

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

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

With this petition, Petitioner has submitted an amendment, the petition fee, and the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on October 6, 2011 can be processed in due course.

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

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

Paul Shanoski
Senior Attorney
Office of Petitions

1 See Rule 1.137(d).

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/852,458	09/10/2007	Xiong Cai	4045.3004 US2	1270

38473 7590 03/09/2011

ELMORE PATENT LAW GROUP, PC
484 Groton Road
Westford, MA 01886

EXAMINER	
WILLIS, DOUGLAS M	

ART UNIT	PAPER NUMBER
1624	

MAIL DATE	DELIVERY MODE
03/09/2011	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 0 9 2011

Carolyn S. Elmore
ELMORE PATENT LAW GROUP, PC
484 Groton Road
Westford MA 01886

In re Application of :
Cai et al :
Serial No.: 11/852,458 : PETITION DECISION
Filed: 10 September 2007 :
Attorney Docket No.: 4045.3004 US2 :

This is in response to the petition under 37 CFR 1.144, filed 29 October 2009, requesting reconsideration of the restriction requirement. The petition was only recently brought to the attention of the deciding official. The resulting delay is regretted.

BACKGROUND

This application is a national application filed under 35 U.S.C. 111(a) and, as such, would be considered for restriction under US practice in chapter 800 of the MPEP.

On 1 October 2008, the examiner mailed a restriction requirement in which claims 1-20 were divided into 18 groups. An election of species was required for each group

On 1 December 2008, applicants elected Group V, claims 18 and 21-23 and the species of compound 12, with traverse.

On 6 January 2009, the examiner considered the traversal and made the restriction requirement final. The examiner withdrew claims 1, 3-17, 19 and 20 from examination. The examiner rejected the claims 18 and 21-32 under 35 U.S.C. 112, first paragraph for scope of enablement and under 35 U.S.C. 112, second paragraph for indefiniteness.

On 14 April 2009, applicants filed a response and an amendment.

On 12 May 2009, the examiner prepared a final Office action in which claims 18 and 21-32 were rejected. The examiner made the following objections:

- Claim 23 was objected to under 37 CFR 1.75(c) as being improper dependent claims for failing to further limit the subject matter of the previous claim.
- Claims 18 and 21-32 were objected to for lack of compliance with the restriction requirement.

On 12 August 2009, Applicants filed an amendment after final, which the examiner refused to enter in the advisory action mailed 4 September 2009. Applicants also filed a Notice of Appeal on 12 August 2009.

On 29 October 2009, Applicants filed this petition under 37 CFR 1.144 to request withdrawal of the restriction requirement and under 37 CFR 1.181 to request entry of the amendment filed 4 September 2009.

On 14 December 2009, applicants filed an Appeal Brief.

A Supplemental Appeal Brief was filed on 21 January 2010.

DISCUSSION

The petition and file history have been carefully considered.

First, the petition requests withdrawal of the restriction requirement. This request is untimely. 37 CFR 1.145 requires that the petition "must be filed not later than appeal." Here, the petition was filed on 29 October 2009, several months after the Notice of Appeal was filed on 12 August 2009.

Next, the petition filed under 37 CFR 1.181 requests entry of the amendment filed 12 August 2009. On 4 September 2009, the examiner had refused entry to this amendment citing that it would not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal. This is incorrect. The amendment filed 12 August 2009 addressed the rejection made under 35 U.S.C. 112, first paragraph and the objection concerning dependent claim 23. On 12 August 2009, Claim 23 was re-written as an independent claim.

Finally, it is noted that the examiner has made an objection to the unexamined embodiments recited in the alternative of the claims. This is not warranted. Applicants have a right to retain non-elected embodiments recited in the alternative of a single claim, per MPEP 803.02.

DECISION

The petition filed under 37 CFR 1.144 is **DISMISSED** as untimely, as being filed after the filing of the Notice of Appeal.

The petition filed under 37 CFR 1.181 is **GRANTED** as follows:

> The objection of claims 18 and 21-32 for lack of compliance with the restriction requirement is withdrawn.

The amendment filed on 12 August 2009 is entered.

The application will be forwarded to the examiner for consideration of the claims in view of the amendment filed 12 August 2009, the Appeal Brief filed on 14 December 2009 and the Supplemental Appeal Brief filed on 21 January 2010 and for preparation of an Office action consistent with this decision. The Examiner is reminded of the examination practice for Markush claims found in MPEP 803.02.

Should there be any questions about this decision, please contact Quality Assurance Specialist Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0512 or by facsimile sent to the general Office facsimile number, 571-273-8300.

JMStone, for
Remy Yucel
Director, Technology Center 1600

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MINNEAPOLIS MN 55402

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MAR 31 2011

OFFICE OF PETITIONS

In re Application of
Jay H. Connelly
Application No. 11/852,547 : ON PETITION
Filed: September 10, 2007
Attorney Docket No. P7404C/1020P7404C

This is a decision on the petition under 37 CFR 1.137(b)[1], filed March 7, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned September 10, 2010 for failure to timely reply to the Final Office Action mailed June 9, 2010 which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed January 24, 2011.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2424 for processing of the RCE.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/852,604	09/10/2007	Changgeng Qian	4045.3001 US2	1533

38473 7590 07/14/2011

ELMORE PATENT LAW GROUP, PC
484 Groton Road
Westford, MA 01886

EXAMINER
MCDOWELL, BRIAN E

ART UNIT	PAPER NUMBER
1624	

NOTIFICATION DATE	DELIVERY MODE
07/14/2011	ELECTRONIC

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

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

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

docketing@elmorepatents.com

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ELMORE PATENT LAW GROUP, PC
484 Groton Road
Westford MA 01886

: PETITION DECISION

In re Application of:
Qian et al.
Serial No.: 11/852,604
Filed: September 10, 2007
Attorney Docket No.: **4045.3001 US2**

This is in response to the petition under 37 CFR § 1.181, filed May 2, 2011, requesting that the amendment after final of February 9, 2011 be entered.

BACKGROUND

Relevant parts of the prosecution history are summarized below.

The examiner mailed a final Office action on September 9, 2010 setting a three month shortened statutory period for reply. In this Office action, claims 5-7, 9 and 15-21 were pending, claims 5-7, 9, 16, and 17 were rejected, and claims 15, and 18-21 were objected to. Specifically, claims 5-7, 9 16 and 17 continued to be rejected under 35 U.S.C. 112, second paragraph, as indefinite. Claims 5 and 9 were rejected under 35 USC 102 (b) as anticipated by Kume et al.

On February 9, 2011, applicants submitted an amendment after final including claim amendments and arguments traversing the rejections to the claims.

On March 2, 2011, the examiner mailed to applicants an advisory action indicating that the after final amendment of February 9, 2011 would not be entered because the amendments were deemed to raise new issues that would require further consideration and/or search.

On May 2, 2011, applicants submitted the petition currently under review.

DISCUSSION

The petition and the file history have been carefully considered.

Applicants argue that "... the amendments of claims 6, 7, 15-17 and 21 do not change the scope of these claims and were all, in fact, suggested by the Examiner. Further, the amendments to claim 5 do not change the scope of variable R7. The amendment restates the identities for R7, but these identities are not changed as a result of the amendment. The amendment of claim 5 narrows the scope of variable R'. However, this amendment merely reverses the change to the definition of this variable set forth in Applicants' amendment filed July 13, 2010. Upon entry of the Amendment after Final, the scope of claim 5 will be identical to the scope of this claim prior to entry of the July 13, 2010 amendment. Thus, contrary to the Examiner's assertion, the amendments raise no new issues, and the amended claims include no subject matter which has not previously been considered by the Examiner." Applicants' arguments with respect to amending the claims to recite "C(O)" as suggested by the examiner is not seen to raise new issues but the other changes do change the scope of the claims. Specifically, in the amendment filed on July 13, 2010, the scope of variable R' was H, aliphatic, substituted aliphatic or acyl. Variable R7 embraced substituent OR'. In the after final amendment filed February 9, 2011, the scope of R' was amended to delete several embodiments; thus the scope of OR' for variable R7 would have been limited as well since variable R7 embraced the definition R' in embodiment OR'. However, applicants deleted the entire definition of OR' with respect to variable R7 and added several alternative embodiments. Thus, instead of the claims being narrowed with respect to variable R7, they were broadened. As a result, the amendment after final raises new issues requiring further consideration and/or search.

DECISION

The petition is **DENIED**.

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

Should there be any questions about this decision please contact 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.

Remy Yucel
Director, Technology Center 1600

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DICKINSON WRIGHT PLLC
1875 Eye Street, NW
Suite 1200
WASHINGTON DC 20006

MAILED
AUG 12 2011
OFFICE OF PETITIONS

In re Application of :
E. Terry NEELY :
Application No. 11/852,612 : ON PETITION
Filed: September 10, 2007 :
Attorney Docket No. 26481-00003 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 12, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 21, 2010, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on December 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 an amendment; (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office Action of September 21, 2010 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be field prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on July 12, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Wilson Lee at (571) 272-1824 or in his absence, the undersigned at (571) 272-7099.

Application No. 10/121,627

The application file is being referred to Technology Center AU 2437 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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JOHN ALEXANDER GALBREATH
2516 CHESTNUT WOODS CT
REISTERSTOWN MD 21136

MAILED
MAR 16 2011
OFFICE OF PETITIONS

In re Application of :
Ronald E. Launs :
Application No. 11/852,633 : DECISION ON PETITION
Filed: September 10, 2007 :
Attorney Docket No. **L091007** :

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed December 07, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 08, 2010.

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

Petitioner failed to provide an amendment that prima facie places the application in condition for allowance. See attached courtesy copy of examiner's advisory action.

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).

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

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

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

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Encl: Please see attached PTOL-303

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 11/852,633	**Applicant(s)** LAUNS, RONALD E.	
	Examiner JESSIE FONSECA	**Art Unit** 3633	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 August 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Robert J Canfield/
for B. Glessner, SPE of Art Unit 3633

/J. F./
Examiner, Art Unit 3633

Continuation of 3. NOTE: The proposed amendment to claims 1 and 12 further defines the enclosing surfaces of the cavity, which would require further consideration and/or search.

Continuation of 11. does NOT place the application in condition for allowance because: The argument that the cavity of Place et al. is created wholly by the walls of the duct and not in part by the existing wall and ceiling is not found persuasive. The claims of 8/12/09 recited the cavity being created between the elongated members and the exisiting wall and ceiling, but did not recite the enclosing boundaries of the cavity. The remainder of the arguments are directed to the claims as proposed. As stated previously, the proposed claims have not been entered as they would require further consideration.

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN ALEXANDER GALBREATH
2516 CHESTNUT WOODS CT
REISTERSTOWN MD 21136

MAILED

MAR 25 2011

OFFICE OF PETITIONS

In re Application of :
Ronald E. Launs :
Application No. 11/852,633 : DECISION ON PETITION
Filed: September 10, 2007 :
Attorney Docket No. **L091007** :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 07, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 08, 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. Accordingly, the reply to the final Office Action of December 07, 2009 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 3633 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date :December 17, 2010

Patent No. :7833338
Ser. No. :11852696
Inventor(s) :Everett Crews, et al.
Issued :November 16, 2010
Title :METHOD FOR PRODUCING BITUMEN COMPOSITONS

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions
Electronic Filing	uspto.gov/ebc/index.html (must be registered as an e-filer to submit responses) Support 1-866-217-9197 571-272-4100

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

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

MeadWestvaco Corporation
1021 Main Campus Drive,
Raleigh, NC 27606

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MEADWESTVACO CORPORATION
ATTN: IP LEGAL DEPARTMENT
1021 MAIN CAMPUS DRIVE
RALEIGH NC 27606

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Patent No. 7,833,338 :
Issued: November 16, 2010 :
Application No. 11/852,696 : ON PETITION
Filed: September 10, 2007 :
Attorney Docket Number: 0335IIC :

This is a decision on the petition, filed December 8, 2010 under 37 CFR 1.183, to correct the assignee's name on the front of the Patent, which is being treated as a request under 37 CFR 3.81(b)[1]

The petition is **GRANTED**.

Petitioner states that the assignee is MEADWESTVACO CORPORATION, and seeks to correct an error on the face of the patent. Petitioner does not indicate that the failure to include the correct assignee name on the Fee(s) Transmittal form PTOL-85(b) was inadvertent however it will be so construed. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front 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 request is accompanied by a certificate of correction. Office assignment records reflect that the name of the assignee is MEADWESTVACO CORPORATION and thus, the certificate of correction will be issued in the name of MEADWESTVACO CORPORATION in accordance with the Office assignment records.

---

[1] See Official Gazette of June 22, 2004

The petition fee and fee for the certificate of correction have been applied. However, the petition fee is set at $130, not $400 as has been paid. A refund in the amount of $270 will be credited to the Credit Card provided with the instant petition.

Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CANTOR COLBURN LLP
20 Church Street
22nd Floor
Hartford CT 06103

MAILED

OCT 13 2010

OFFICE OF PETITIONS

In re Application of :
Seon Mi Yoon et al. :
Application No. 11/852,734 : DECISION ON PETITION
Filed: September 10, 2007 :
Attorney Docket No. PHO0079US :

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

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed December 28, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 29, 2010. A Notice of Abandonment was mailed on July 26, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an 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 1793 for appropriate action by the Examiner in the normal course of business on the reply received August 11, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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ORGANON USA, INC.
C/O MERCK
2000 GALLOPING HILL ROAD
MAIL STOP: K-6-1, 1990
KENILWORTH, NJ 07033

MAILED

AUG 06 2010

OFFICE OF PETITIONS

In re Application of :
Jeffrey Letourneau, et al. :
Application No. 11/852,737 : DECISION ON PETITION
Filed: September 10, 2007 :
Attorney Docket No. 2006.956US :

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 Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed January 8, 2010, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 9, 2010.

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

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with the petition on July 12, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 1625 for appropriate action by the Examiner in the normal course of business on the reply received July 12, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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2000 GALLOPING HILL ROAD
MAIL STOP: K-6-1, 1990
KENILWORTH, NJ 07033

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FEB 01 2011

OFFICE OF PETITIONS

In re Application of
Jeffrey Letouraneau, et al.
Application No. 11/852,737
Filed: September 10, 2007
Attorney Docket No. 2006.956US

DECISION ON PETITION

This is a decision on the renewed 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**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 7, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed September 7, 2010. Accordingly, the date of abandonment of this application is December 8, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ORGANON USA, INC.
C/O MERCK
2000 GALLOPING HILL ROAD
MAIL STOP: K-6-1, 1990
KENILWORTH NJ 07033

MAILED

JUN 01 2011

OFFICE OF PETITIONS

In re Patent No. 7,906,504	: DECISION ON REQUEST
Letourneau et al.	: FOR
Issue Date: 03/15/2011	: RECONSIDERATION OF
Application No. 11/852,737	: PATENT TERM ADJUSTMENT
Filed: 09/10/2007	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
2006.956US	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 19, 2011, 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 zero (0) 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 zero (0) 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 Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

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 **zero (0)** 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 : 7,906,504 B2

DATED : **Mar. 15, 2011** **DRAFT**

INVENTOR(S) : Letourneau 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 28 days.

Delete the phrase "by 28 days" and insert – by 0 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10-5-11 Paper No.: _____

TO SPE OF : ART UNIT 2156

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/852,724 Patent No.: 7969446

CofC mailroom date: 9-29-11

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

FOR IFW FILES: Check Figs.

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

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

FOR PAPER FILES:

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

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

Chris Young
Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

Bunsi Das 2156
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/28/10

TO SPE OF : ART UNIT 3618

SUBJECT : Request for Certificate of Correction for Appl. No.: 11852767 Patent No.: 7690447

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
703-756-1574

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: _____

8/29/10 3618

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/30/11

TO SPE OF : ART UNIT 3618

SUBJECT : Request for Certificate of Correction for Appl. No.: 11852767 Patent No.: 7690447

CofC mailroom date: 01/10/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Comments: The certificate of correction is approved to enter. HP

J. Allen Shriver
SPE

3618
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **2-16-11**

TO SPE OF : ART UNIT **2427**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11852791** Patent No.: **7853969**

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: _____

_____

_____

_____

_____

/Scott Beliveau/ **2427**
SPE **Art Unit**

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

MAILED
JUN 16 2011
OFFICE OF PETITIONS

In re Application of :
Judith Kelleher-Andersson et al. :
Application No. 11/852,922 : DECISION ON PETITION
Filed: September 10, 2007 :
Attorney Docket No. **616752000210** :

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 20, 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 21, 2010.

The petition is **GRANTED**.

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

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

filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on June 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 concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 1657 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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ZILKA-KOTAB, PC
PO BOX 721120
SAN JOSE, CA 95172-1120

MAILED

APR 21 2011

OFFICE OF PETITIONS

In re Application of
Steven M. Haffele, et al.
Application No. 11/852,932
Filed: September 10, 2007
Attorney Docket No. NAI1P341A/04.038.03

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 **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

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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HICKMAN PALERMO TRUONG & BECKER, LLP
ONE ALMADEN BOULEVARD
FLOOR TWELVE
SAN JOSE CA 95113

MAILED

MAR 28 2012

OFFICE OF PETITIONS

In re Application of	:	
Jain et al.	:	DECISION ON PETITION
Application No. 11/852,952	:	TO WITHDRAW
Filed: September 10, 2007	:	FROM RECORD
Attorney Docket No. 60125-0012	:	

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 19, 2012.

The request is **NOT APPROVED**.

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

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

Therefore, as there is currently no Statement under 37 CFR 3.73(b) of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

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

Currently, there is an outstanding Office action mailed December 21, 2011 that requires a reply.

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEVINE BAGADE HAN LLP
2400 GENG ROAD, SUITE 120
PALO ALTO CA 94303

MAILED

JUL 28 2011

OFFICE OF PETITIONS

In re Application of :
Brian Benjamin Martin et al. :
Application No. 11/852,975 : DECISION ON PETITION
Filed: September 10, 2007 :
Attorney Docket No. **LZRSNC00900** :

This is a decision on the petition, filed June 16, 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 non-final Office action of December 7, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 13, 2011.

Petitioner contends that the Notice of Abandonment was mailed in error since a timely reply (Amendment) was submitted to the Office on June 7, 2011, with a request for three (3) month extension of time by way of Electronic Filing System (EFS). A review of the application file record confirms the receipt of this reply with the fees for a three (3) month extension of time, on June 7, 2011. Thus, the application is not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby **VACATED** and the holding of abandonment **WITHDRAWN**.

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

This application is being referred to Technology Center AU 3731 for appropriate action in the normal course of business on the reply received with the instant petition.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT J. SAYFIE, P.C.
161 OTTAWA AVENUE NW, SUITE 407
GRAND RAPIDS MI 49503

MAILED

FEB 22 2011

OFFICE OF PETITIONS

In re Application of :
Liggett, et al. : DECISION ON PETITION
Application No. 11/852,987 :
Filed: September 10, 2007 :
Atty. Dkt. No.: PA7-2987 :

This decision is in response to the petition under 37 CFR 1.137(b), filed November 26, 2010.

The petition is **GRANTED**.

The application became abandoned May 25, 2010 for failure to timely submit a proper reply to the Office action mailed February 24, 2010. The Office action set a one month shortened statutory period of time for reply. A two month extension of time under 37 CFR 1.136(a) was timely procured. Notice of Abandonment was mailed October 12, 2010.

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

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

This application is being forwarded to Group Art Unit 3711 for further processing.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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	11853016
Filing Date	10-Sep-2007
First Named Inventor	Charles Ogilvie
Attorney Docket Number	24743-13205
Title	On-Board Vessel Entertainment System

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

Petition Fee

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

2. Reply and/or fee

- ○ I certify, in accordance with 37 CFR 1.4(d)(4) that the amendment and response have already been filed in the above-identified application on
- ◉ Amendment and response are attached

RCE request,submission, and fee.

- ○ I certify, in accordance with 37 CFR 1.4(d)(4) that the RCE Request, Submission, and Fee have already been filed in the above-identified application on
- ○ RCE Request, Submission, and Fee are attached

Notice of Appeal

○ I certify, in accordance with 37 CFR 1.4(d)(4) that the Notice of Appeal and Fee have already been filed in the above-identified application on	
○ Notice of Appeal and Fee are attached	
3. Terminal Disclaimer is not required, since the Electronic Petition format is not support for Design applications and applications filed before June 8, 1995. Please file using regular petition format for review by the Office of Petitions.	
☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.	
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES	
I certify, in accordance with 37 CFR 1.4(d)(4) that I am:	
○ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.	
◉ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.	
○ A sole inventor	
○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors	
○ A joint inventor; all of whom are signing this e-petition	
○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71	
Signature	/Daniel R Brownstone 46581/
Name	Daniel Brownstone
Registration Number	46581

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date January 25, 2012

In re Application of Charles Ogilvie

Application No. 11853016

Filed: 10-Sep-2007

Attorney Docket No. 24743-13205

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), January 25, 2012 , to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the outstanding Office communication. The date of abandonment is the day after the last day of the period set for reply in the Office action plus any applicable extensions of time properly requested.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response; (2) the petition fee as set forth in 37 CFR 1.17 (m); and (3) the required statement of unintentional delay have been received. Accordingly, the response is accepted as having been unintentionally delayed.

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

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

This application file is being directed to the Technology Center.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VAN DYKE, GARDNER, LINN & BURKHART, LLP
SUITE 207
2851 CHARLEVOIX DRIVE, S.E.
GRAND RAPIDS MI 49546

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Eric N. Combs	:	
Application No. 11/853,278	:	DECISION ON PETITION
Filed: September 11, 2007	:	
Attorney Docket No. ELK01 P-322A	:	

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**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, April 5, 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 6, 2010. A Notice of Abandonment was mailed November 4, 2010.

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

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. 12/896,262, filed October 1, 2010.

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.

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

BROOKHAVEN SCIENCE ASSOCIATES/
BROOKHAVEN NATIONAL LABORATORY
BLDG. 490C - P.O. BOX 5000
UPTON NY 11973

MAILED
SEP 27 2011
OFFICE OF PETITIONS

In re Application of	:	
Adzic et al.	:	
Application No. 11/853,368	:	ON PETITION
Filed: September 11, 2007	:	
Attorney Docket No. BSA 07-27	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 2, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 12 2011

OFFICE OF PETITIONS

FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

In re Application of :
Ronald G. Wagner :
Application No. 11/853,387 : DECISION ON PETITION
Filed: September 11, 2007 :
Attorney Docket No. **0100352.0545708** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 28, 2011, to revive the above-identified application.

The petition is **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 final Office action mailed, December 28, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 28, 2009.

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

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

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

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

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

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

Ramesh Krishmurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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FROST BROWN TODD LLC
3300 Great American Tower
301 East Fourth Street
CINCINNATI, OH 45202

MAILED
FEB 17 2012
OFFICE OF PETITIONS

In re Application of Ronald G. Wagner :
Application No. 11/853,387 : Decision on Petition
Filing Date: September 11, 2007 :
Attorney Docket No. 0100352.0545708 :

This is a decision on the petition under 37 CFR 1.137(b) filed July 21, 2011, which requests revival of the instant application.

The petition is **granted**.

Background

The Office issued a final Office action on December 28, 2009, which set a shortened statutory period for reply of three (3) months. Neither a reply nor a request for an extension of time was filed in response to the Office action. As a result, the application became abandoned on Tuesday, March 30, 2010. The Office issued a Notice of Abandonment on August 16, 2010.

A petition under 37 CFR 1.137(b) was filed March 28, 2011. Although, the petition included the required petition fee and the required statement of unintentional delay, the petition could not be granted because the reply to the Office action filed with the petition was not signed.

The Office issued a decision dismissing the petition on July 12, 2011. The decision required the submission of a proper reply to the Office action. The decision stated any request for reconsideration should be filed within two months and "should include a cover letter entitled 'Renewed Petition under 37 CFR 1.137(b).'"

Petitioner filed a new reply to the Office action on July 21, 2011.

Discussion

Based on the specific facts in this case, the Office has decided to treat the reply filed July 21, 2011, as a request for reconsideration. However, if Petitioner wishes for the Office to reconsider

any decision dismissing a petition in the future, in this case or any other case, Petitioner must file a *separate* request for reconsideration.

The "request for reconsideration" includes a signed reply to the December 28, 2009 Office action. Therefore, the request is granted.

Technology Center Art Unit 3651 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/853,425	09/11/2007	Seth E. Lerner	P000898-FCA-CHE	3000

65798 7590 05/23/2011

MILLER IP GROUP, PLC
GENERAL MOTORS CORPORATION
42690 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS, MI 48304

EXAMINER	
CHUO, TONY SHENG HSIANG	
ART UNIT	**PAPER NUMBER**
1729	

MAIL DATE	DELIVERY MODE
05/23/2011	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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Alexandria, VA 22313-1450
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MAY 2 3 2011 wk

Mailed :

In re Application of	:	DECISION ON
Lerner	:	PETITION
Serial No. 11/853,425	:	
Filed: September 11, 2007	:	

For: **IMPLEMENTATION OF AN ENGINE CONTROLLER UNIT'S NON-VOLATILE MEMORY FOR MEASURING THE TIME OF A FUEL CELL SYSTEM IN A SHUT-OFF OR STANDBY STATE**

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 filed on February 15, 2011.

The Examiner initially required a species restriction on November 23, 2010. Species 1 was drawn to incrementing a stand-by-time if the system has been shut down and a fuel cell controller is on. Species 2 is drawn to incrementing a stand-by-time if the system has been shut-down, but a key is in a vehicle ignition in an on or accessory position. Species 3 is drawn to adding the stand-by time and shut-down time to provide an off-time that can be used to determine the gas constituency in the anode side of the stack and determine a proper start-up sequence of the fuel cell system. . The species are independent or distinct because the claims to the different species recite the mutually exclusive characteristics of such species.

Applicant elected Species 2 with traverse. Applicant amended claim 1 to eliminate the language that stand-by time is incremented when the fuel cell controller is on and the shut-off time is incremented when the engine controller is off, and to include that he stand-by time in incremented when a key is in the vehicle ignition and the shut-off time is incremented when the key is out of the ignition. Applicant submits that this amendment made independent claim 1 generic to Species 2.

Where there is no disclosure of a relationship between species (see MPEP § 806.04(b)), they are independent inventions. A requirement for restriction is permissible if there is a patentable difference between the species as claimed and there would be a serious burden on the examiner if restriction is not required. See MPEP § 803 and § 808.02. 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).

MPEP 808.02 states that where the inventions as claimed are shown to be independent or distinct under the criteria of MPEP § 806.05(c) - § 806.06, the examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required. Thus the examiner must show by appropriate explanation one of the following:

(A) **Separate classification thereof**: This shows that each invention has attained recognition in the art as a separate subject for inventive effort, and also a separate field of search. Patents need not be cited to show separate classification.

(B) **A separate status in the art when they are classifiable together**: Even though they are classified together, each invention can be shown to have formed a separate subject for inventive effort when the examiner can show recognition of separate inventive effort by inventors. Separate status in the art may be shown by citing patents which are evidence of such separate status, and also of a separate field of search.

(C) **A different field of search**: Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., searching different classes/subclasses or electronic resources, or employing different search queries, a different field of search is shown, even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different fields of search.

The Examiner states on page 3 of the Office Action mailed February 11, 2011 that, "the Examiner has established a serious burden if restriction is not required because searching all the species would require employing different search strategies for each of the three mutually exclusive characteristics of the 3 species."

The Examiner has not demonstrated with sufficient specificity that there would be a serious burden if restriction is not required as stated under MPEP 808.02. The Examiner has not identified the search field for the different species.

DECISION

The petition is **GRANTED**.

The Restriction is withdrawn.

/W. GARY JONES/
W. Gary Jones
Director, Technology Center 1700
Chemical and Materials Engineering

John A. Miller
MILLER IP GROUP, PLC
GENERAL MOTORS CORPORATION
42690 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS MI 48304

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

DEC 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Martin Morris	:	
Application No. 11/853459	:	ON APPLICATION FOR
Filing or 371(c) Date: 09/11/2007	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
15979US02	:	

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING NOTICE OF ALLOWANCE, filed August 27, 2010. Applicant requests that the Patent Term Adjustment be changed to reflect 272 days, not 178 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

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

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

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

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

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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

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

MAILED

APR 25 2011

OFFICE OF PETITIONS

In re Application of
Reddel et al.
Application No. 11/853,492
Filed: September 11, 2007
Attorney Docket No. 54187-335500

DECISION ON PETITION
TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 7, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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 Charles W. Calkins, on behalf of all attorneys of record who are associated with Customer Number 23342.

All attorneys/agents associated with the Customer Number 23342 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee at the address indicated below.

Currently, there is an outstanding Office action mailed October 27, 2010 that requires a reply.

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Live Cargo, Inc.
6520 Airport Center Drive, Suite 102
Greensboro, NC 27409

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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STRAUB & POKOTYLO
788 Shrewsbury Avenue
TINTON FALLS NJ 07724

MAILED

MAR 15 2012

OFFICE OF PETITIONS

In re Application of :
Harris :
Application No. 11/853,577 : ON PETITION
Filed: September 11, 2007 :
Attorney Docket No. DYNA-4CON :
For: SYSTEMS AND METHODS FOR ENHANCING THE PROVISIONING AND FUNCTIONALITY OF WIRELESS INSTRUMENTS

This is a decision on the petition, filed February 10, 2012, under 37 CFR 1.182 requesting a change in the order of the first and last name of the sole inventor.

The petition is **GRANTED**.

The typographical errors in the listing of the sole inventor's name have been corrected in Office databases to reflect her name as – Arlene J. Harris. It is noted the original declaration, filed September 11, 2007 was executed by the sole inventor and she signed her name in the following manner: "Arlene J. Harris".

A corrected filing receipt was mailed February 16, 2012.

After the mailing of this decision, the application file will be referred to the Office of Data Management for processing into a patent.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 10 2011

OFFICE OF PETITIONS

HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067

In re Application of	:	
Herman Moore et al.	:	
Application No. 11/853,583	:	DECISION ON PETITION
Filed: September 11, 2007	:	TO WITHDRAW
Attorney Docket No. 065413.00003	:	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 4, 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 Preston H. Smirman on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Rogers Brackmann at the address indicated below.

The application became abandoned for failure to timely reply to the Office action mailed on July 8, 2010.

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: **Herman Moore**
4840 Adams Road, #503
Rochester Hills, MI 48306

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/853,583	09/11/2007	Herman Moore	065413.00003

CONFIRMATION NO. 3286

27305
HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067

POWER OF ATTORNEY NOTICE

OC000000045366898

Date Mailed: 01/10/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/04/2010.

- 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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United States Patent and Trademark Office
Washington, D.C. 20231
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HOLLAND & HART, LLP
P.O BOX 8749
DENVER CO 80201

MAILED
APR 13 2011
OFFICE OF PETITIONS

In re Application of :
Kendra A. Wilcox :
Application No. 11/853,639 : ON PETITION
Filed: September 11, 2007 :
Attorney Docket No. 56423.0006 :

This is a decision on the petition filed March 25, 2011, under 37 CFR § 1.48(a)(2). and in view of the facts as presented, treated also under 37 CFR § 1.183 requesting waiver of the requirements under 37 CFR 1.48.

The petition under 37 CFR § 1.183 is **GRANTED**.
The petition under 37 CFR § 1.48 is **GRANTED**.

Petitioner seeks waiver of the rules such that the petition under 37 CFR 1.48 may be considered in the absence of the signed statement of no deceptive intent by one of the originally named inventors. The application was filed naming David W. Lofland and Kendra A. Wilcox and seeks under 37 CFR § 1.48(a) to amend the inventive entity by the deletion of David W. Lofland.

37 CFR 1.48(a) 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 has satisfied requirements (1),(3), (4) and (5) above. The petition specifically requests the deletion of inventor David W. Lofland. The declaration submitted is re-executed by Kendra A. Wilcox and she provides the statement that through error and without deceptive intent, the original application improperly set forth the inventorship. Petitioner has paid the processing fee. The petition includes a statement signed by Kendra A. Wilcox, as the sole member/Manager of Deep Tech Products, LLC, the assignee, consenting to the change in inventorship. Petitioner states that the assignment reflecting this ownership is recorded at reel/frame 020152/0006.

However, the petition does not satisfy requirement (3) above.

On very infrequent occasions, the requirements of 37 CFR 1.48(a) have been waived upon the filing of a request and fee under 37 CFR 1.183 (along with the request and fee under 37 CFR 1.48(a)) to permit the filing of a statement by less than all the parties required to submit a statement. In re Cooper, 230 USPQ 638, 639 (Dep. Assist. Comm'r Pat. 1986). However, such a waiver will not be considered unless the facts of record unequivocally support the correction sought. In re Hardee, 223 USPQ 1122, 1123 (Comm'r Pat. 1984). As 37 CFR 1.48(a) is intended as a simple procedural remedy and does not represent a substantive determination as to inventorship, issues relating to the inventors' or alleged inventors' actual contributions to conception and reduction to practice are not appropriate for consideration in determining whether the record unequivocally supports the correction sought.

As to requirement (3), in such circumstances, a petition under 37 CFR 1.183 should be considered requesting waiver of the requirements of 37 CFR 1.48, a statement from *each person being deleted* as an inventor that the error in inventorship occurred without deceptive intention on his or her part. Previously named inventor David W. Lofland has not provided such a statement. See MPEP 201.03.

Applicants have shown that the non-signing inventor was given an opportunity to provide the statement that through error and without deceptive intent, the original application improperly set forth the inventorship.Therefore, the petition bears proof that the nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and, accordingly, this application has been corrected in compliance with 37 CFR 1.48. The inventorship of this application has been changed by the deletion of David. W. Lofland as a joint inventor Accordingly, the waiver is **GRANTED**.

Receipt of payment of the processing fee of $130 under 1.17(i)is acknowledged. As the petition authorized the charging of additional fees as required, petitioner's deposit account no. 08-2623 has been charged in the amount of $400 for the petition under 37 CFR 1.183.

This matter will be referred to the Office of Patent Application Processing for issuance of a corrected filing receipt, correction of the file and PTO PALM data to reflect the inventorship as corrected. Thereafter, the matter will be referred to Technology Center 3765.

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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Paper No.

MAILED
MAY 26 2011
OFFICE OF PETITIONS

COMPUTER PACKAGES, INC.
414 HUNGERFORD DRIVE
ROCKVILLE MD 20850

In re Application of :
Koehn et al. :
Application No. 11/853,647 : DECISION ON PETITION
Filed: September 11, 2007 : PURSUANT TO
Attorney Docket No.: 07-0278 : 37 C.F.R. § 1.181(A)
Title: MULTI-POSITION SECURE :
DOOR SYSTEM :

This is a decision on the petition filed April 28, 2011, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED.**

It is noted in passing that Petitioner placed the serial number 22/853,647 in this petition. Petitioner is reminded that errors such as occurred can result in loss of rights and care must be taken to avoid such.

BACKGROUND

The above-identified application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed December 2, 2010, which set a shortened statutory period for reply of three months.[1] No extensions of time are permitted for transmitting formal drawings.[2] Accordingly, the above-identified application became abandoned on March 3, 2011. A Notice of Abandonment was mailed on March 17, 2011.

1 The issue and publication fees were received on January 12, 2011, along with form PTOL-85b.
2 See MPEP § 710.02(e)(III).

RELEVANT PORTIONS OF THE C.F.R.

35 U.S.C. § 133 sets forth, *in toto*:

> 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.

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require (emphasis added). The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

ANALYSIS

Petitioner argues that corrected drawings were filed prior to the mailing of the Notice of Allowance and Issue Fee Due, and as such, corrected drawings "did not need to be filed again when the Issue Fee was paid on January 12, 2011."[3]

Petitioner's contention regarding the propriety of the requirement for corrected drawings is not well taken. **The propriety of a rejection, objection, or other requirement set forth in an Office action is not relevant to an applicant's**

3 Petition, pages 1-2.

burden to timely prosecute the application to avoid abandonment.[4] Put another way, this application went abandoned due to Petitioner's failure to respond to the notice in full, and the propriety of the requirement for corrected drawings set forth therein is not relevant to the abandonment of this application.

If Applicant believed that the requirement for corrected drawings had been made in error as it was superfluous, the proper course of action would have been to either submit the corrected drawings in order to fully reply to said notice, or contact the Examiner in writing and attempt to secure the mailing of a corrected Notice of Allowance and Issue Fee Due which expressly rescinds the requirement for corrected drawings. However, it does not appear that Petitioner attempted either of these actions, and instead failed to fully respond to the Notice of Allowance and Issue Fee Due.

CONCLUSION

Pursuant to the above discussion, the record does not support a finding that the holding of abandonment should be withdrawn. As such, this petition pursuant to 37 C.F.R. § 1.181(a) must be dismissed.

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted.** The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

Since it does not appear that Petitioner will be able to secure the withdrawal of the holding of abandonment, **Petitioner may wish to instead seek the revival of this application, by filing a petition pursuant to 37 C.F.R. §§ 1.137(a) and/or (b).**

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[5] hand-delivery,[6] or facsimile.[7]

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4 See 35 U.S.C. § 133 and 37 C.F.R. §§ 1.134 and 1.135(a) and (b), reproduced above.

5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

7 (571) 273-8300- please note this is a central facsimile number.

Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[8]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[9]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Weiss & Moy, P.C.
4204 N. Brown Ave.
Scottsdale, AZ 85251

8 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
9 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).

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414 HUNGERFORD DRIVE
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JUN 17 2011

OFFICE OF PETITIONS

In re Application of
Michael S. Koehn et al.
Application No. 11/853,647
Filed: September 11, 2007
Attorney Docket Number: 07-0278

ON PETITION

This is a decision on the petition, filed June 14, 2011 under 37 CFR 1.137(b)[1], to revive the above identified application.

The petition is **GRANTED**.

While the issue fee was paid January 12, 2011, this application became abandoned March 3, 2011 for failure to file corrected drawings in response to the Notice of Allowability mailed on December 2, 2011. Accordingly, the Notice of Abandonment was mailed on March 17, 2011.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The 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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CENTRAL COAST PATENT AGENCY, INC
SUITE D
3 HANGAR WAY
WATSONVILLE CA 95076

MAILED

SEP 29 2010

OFFICE OF PETITIONS

In re Application of Goroshevsky et al. :
Application No. 11/853,771 : Decision on Petition
Filing Date: September 11, 2007 :
Attorney Docket No. P2123 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 19, 2009, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed September 21, 2007. The notice set a period for reply of two (2) months from the mail date of the notice. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the application became abandoned on November 22, 2007. A Notice of Abandonment was mailed on May 30, 2008.

The instant petition requests revival of the application.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the September 21, 2007 notice in the form of an executed declaration and payment of the required $65 surcharge. Petitioner has submitted the required petition fee of $810. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Patent Application Processing will be informed of the instant decision and will prepare the application for examination in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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CHOOBIN & CHOOBIN CONSULTANCY L.L.C
BARRY CHOOBIN
18TH FLOOR, BURJUMAN BUSINESS TOWER
P.O. BOX 121828
DUBAI AE UNITED ARAB EMIRATES

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MAR 29 2012

OFFICE OF PETITIONS

In re Application of	:	
Jain et al.	:	DECISION ON PETITION
Application No. 11/853,780	:	TO WITHDRAW
Filed: September 11, 2007	:	FROM RECORD
Attorney Docket No. 60125-0014	:	

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 19, 2012, 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 Hickman Palermo Truong & Becker, 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 Hickman Palermo Truong & Becker, LLP not having power of attorney. See MPEP §§ 601.03 and 405.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. Additionally, the address given on the request differs from the address of record, therefore, a courtesy copy of this decision is being mailed to the address given on the request; however, the Office will mail all future correspondence solely to the address of record.

Currently, there is an outstanding Office action mailed March 29, 2012 that requires a reply.

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Brian D. Hickman
One Almaden Boulevard, 12th Floor
San Jose, CA 95113

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HICKMAN PALERMO TRUONG & BECKER, LLP
ONE ALMADEN BOULEVARD
FLOOR TWELVE
SAN JOSE CA 95113

MAILED

MAR 29 2012

OFFICE OF PETITIONS

In re Application of :
Jain et al. :
Application No. 11/853,782 :
Filed: September 11, 2007 :
Attorney Docket No. 60125-0015 :

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 19, 2012.

The request is **NOT APPROVED**.

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

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

Therefore, as there is currently no Statement under 37 CFR 3.73(b) of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

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

Currently, there is an outstanding Office action mailed March 19, 2012 that requires a reply.

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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CICHOSZ & CICHOSZ, PLLC
129 E. COMMERCE
MILFORD, MI 48381

MAILED

DEC 16 2010

OFFICE OF PETITIONS

In re Application of :
Mutasim A. SALMAN, et *al.* :
Application No. 11/853,865 : DECISION GRANTING PETITION
Filed: September 12, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **GP-307772-RD-JMC** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 15, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 22, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

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

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

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

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	11853878
Filing Date	12-Sep-2007
First Named Inventor	Isamu HIRAI
Art Unit	2622
Examiner Name	HUNG LAM
Attorney Docket Number	P32486
Title	PHOTOGRAPHING APPARATUS HAVING FIRST AND SECOND OPERATION DEVICES

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

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

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

Petition Fee

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

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

☐ Applicant(s) status remains as SMALL ENTITY.

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

Reason for withdrawal from issue

◯ One or more claims are unpatentable ◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees) ◯ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).
RCE request,submission, and fee. ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on ☒ 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	/William Pieprz/
Name	William Pieprz
Registration Number	33630

UNITED STATES 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 28,2011

In re Application of :

Isamu HIRAI

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11853878

Filed : 12-Sep-2007

Attorney Docket No : P32486

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

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 2622 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/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	11853922
Filing Date	12-Sep-2007
First Named Inventor	Christopher Resch
Art Unit	2442
Examiner Name	ANGELA NGUYEN
Attorney Docket Number	75900
Title	SECURITY SYSTEM

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

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

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

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

☒ Applicant(s) status remains as SMALL ENTITY.

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

Issue Fee and Publication Fee :

Issue Fee and Publication Fee must accompany ePetition.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◯ Drawing corrections and/ or other deficiencies are not required ◯ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on ◉ Drawing corrections and/ or other deficiencies are attached. ☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ◯ A sole inventor ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors. ◯ A joint inventor; all of whom are signing this e-petition. ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Dale J. Ream/
Name	Dale J. Ream
Registration Number	45798

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : April 11, 2012

In re Application of :

Christopher Resch

Application No : 11853922

Filed : 12-Sep-2007

Attorney Docket No : 75900

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed April 11, 2012 , to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

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

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Weiss & Arons, LLP
1540 Route 202, Suite 8
Pomona NY 10970

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Jermoe L. Finklestein	:	
Application No. 11/853,929	:	DECISION ON PETITION
Filed: September 12, 2007	:	
Attorney Docket No. 105-002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 13, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed December 30, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 31, 2010. The Notice of Abandonment was mailed July 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election/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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3761 for appropriate action by the Examiner in the normal course of business on the reply received

Terri Johnson
Petitions Examiner
Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**
Application Number	11853933
Filing Date	12-Sep-2007
First Named Inventor	David Nicoll
Attorney Docket Number	27970103
Title	FLUIDIZED BEDS, SIZING OF FLUIDIZED MEDIUM INLET HOLES AND METHODS OF FLUIDIZ

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

Petition Fee

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

2. Reply and/or fee

- ○ I certify, in accordance with 37 CFR 1.4(d)(4) that the amendment and response have already been filed in the above-identified application on
- ◉ Amendment and response are attached

RCE request,submission, and fee.

- ○ I certify, in accordance with 37 CFR 1.4(d)(4) that the RCE Request, Submission, and Fee have already been filed in the above-identified application on
- ○ RCE Request, Submission, and Fee are attached

Notice of Appeal

○	I certify, in accordance with 37 CFR 1.4(d)(4) that the Notice of Appeal and Fee have already been filed in the above-identified application on
○	Notice of Appeal and Fee are attached

3. Terminal Disclaimer is not required, since the Electronic Petition format is not support for Design applications and applications filed before June 8, 1995. Please file using regular petition format for review by the Office of Petitions.

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

○	An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
◉	An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
○	A sole inventor
○	A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
○	A joint inventor; all of whom are signing this e-petition
○	The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/J M GILBRETH/
Name	J M GILBRETH
Registration Number	33388

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date December 22, 2011

In re Application of David Nicoll

Application No. 11853933

Filed: 12-Sep-2007

Attorney Docket No. 27970103

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), December 22, 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 outstanding Office communication. The date of abandonment is the day after the last day of the period set for reply in the Office action plus any applicable extensions of time properly requested.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response; (2) the petition fee as set forth in 37 CFR 1.17 (m); and (3) the required statement of unintentional delay have been received. Accordingly, the response is accepted as having been unintentionally delayed.

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

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

This application file is being directed to the Technology Center.

Office of Petitions

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 O BOX 2480
HOLLYWOOD FL 33022-2480

MAILED

SEP 0 9 2011

OFFICE OF PETITIONS

In re Patent No. 7,980,176	:	
Issue Date: July 19, 2011	:	
Application No. 11/853,980	:	ON PETITION
Filed: September 12, 2007	:	
Attorney Docket No. A-4540	:	

This is a decision on the petition filed September 2, 2011, a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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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FUJITSU PATENT CENTER
FUJITSU MANAGEMENT SERIVICES OF AMERICA, INC
2318 MILL ROAD, SUITE 1010
ALEXANDRIA, VA 22314

MAILED

FEB 17 2011

OFFICE OF PETITIONS

In re Application of	:	
Kazuki Matsui, et al.	:	
Application No. 11/853,996	:	DECISION GRANTING PETITION
Filed: September 12, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 53252	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 19, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2467 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date January 18, 2012

In re Application of James Keeler

Application No. 11854100

Filed: 12-Sep-2007

Attorney Docket No. WP.000008US

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), January 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 outstanding Office communication. The date of abandonment is the day after the last day of the period set for reply in the Office action plus any applicable extensions of time properly requested.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of aresponse; (2) the petition fee as set forth in 37 CFR 1.17 (m); and (3) the required statement of unintentional delay have been received. Accordingly, the response is accepted as having been unintentionally delayed.

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

This application file is being directed to the Technology Center.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**
Application Number	11854100
Filing Date	12-Sep-2007
First Named Inventor	James Keeler
Attorney Docket Number	WP.000008US
Title	Providing Location-Based Services in a Distributed Environment Without Direct Control O

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

Petition Fee

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

2. Reply and/or fee

- ○ I certify, in accordance with 37 CFR 1.4(d)(4) that the amendment and response have already been filed in the above-identified application on
- ◉ Amendment and response are attached

RCE request,submission, and fee.

- ○ I certify, in accordance with 37 CFR 1.4(d)(4) that the RCE Request, Submission, and Fee have already been filed in the above-identified application on
- ○ RCE Request, Submission, and Fee are attached

Notice of Appeal

○	I certify, in accordance with 37 CFR 1.4(d)(4) that the Notice of Appeal and Fee have already been filed in the above-identified application on
○	Notice of Appeal and Fee are attached

3. Terminal Disclaimer is not required, since the Electronic Petition format is not support for Design applications and applications filed before June 8, 1995. Please file using regular petition format for review by the Office of Petitions.

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

◉	An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
○	An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
○	A sole inventor
○	A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
○	A joint inventor; all of whom are signing this e-petition
○	The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Craig J Yudell/
Name	Craig J Yudell
Registration Number	39083

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 26 2010

OFFICE OF PETITIONS

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Patent No. 7,458,355
Issue Date: December 2, 2008
Application No. 11/854,146
Filed: September 12, 2007
Attorney Docket No. AMK-249-485

NOTICE

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

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
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

GREENBLUM & BERSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

MAILED

DEC 2 8 2010

OFFICE OF PETITIONS

In re Application of	:	
Kayode Aladesuyi	:	
Application No. 11/854,305	:	DECISION ON PETITION
Filed: September 12, 2007	:	TO WITHDRAW
Attorney Docket No. P31889	:	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 19, 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 Robert W. Mueller on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Kayode Aladesuyi at the address indicated below.

The application became abandoned for failure to timely pay the issue fee and publication fee indicated in the Notice of Allowance and Fee(s) Due mailed August 12, 2010.

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: **Kayode Aladesuyi**
120 Interstate North Parkway
Suite 445
Atlanta, GA 30339

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
11/854,305	09/12/2007	Kayode ALADESUYI	P31889

CONFIRMATION NO. 4628

POWER OF ATTORNEY NOTICE

7055
GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

OC00000004509177

Date Mailed: 12/22/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/19/2010.

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

/tsjohnson/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : **7918646**
Ser. No. **11/854311**
Inventor(s) : **AKCASU, OSMAN ERSED**
Issued : **04/05/2011**
Title : **HIGH EFFICIENCY TURBINE WITH VARIABLE ATTACK ANGLE FOILS**
Docket No. : **OEAIP001**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

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

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

OL

UNITED STATES PATENT AND TRADEMARK OFFICE

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

King & Spalding LLP
401 Congress Avenue
Suite 3200
Austin TX 78701

MAILED
FEB 01 2011
OFFICE OF PETITIONS

In re Application of :
Tony Baker :
Application No. 11/854,330 : DECISION ON PETITION
Filed: September 12, 2007 :
Attorney Docket No. **077940.0105** :

This is a decision on the petition, filed June 16, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment (Notice) of May 12, 2009, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on May 6, 2010.

Petitioner contends that the Notice of Abandonment was mailed in error since "Applicant has timely responded to all Notices and requirements." Petitioner should note that 37 CFR 1.135(c) authorizes, but does not require, an examiner to give the applicant a new time period to supply an omission. ***See MPEP § 714.03***. Accordingly, the reply to the Notice submitted by the petitioner on April 27, 2010, was filed after the expiration of the extendable time period of reply. The reply filed July 13, 2009, was not acceptable for reasons stated in the Office Communication of April 19, 2010. As the application has been properly held to have gone abandoned, the instant petition cannot be granted at the time.

ALTERNATIVE VENUE

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

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

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$810 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

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

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

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

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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

Doc Code: PET.OP
Document Description: Petition for Review by the Office of Petitions

PTO/SB/64 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor: _____

Application No.: _____ Art Unit: _____

Filed: _____ Examiner: _____

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition Fee

☐ Small entity-fee $_____(37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.

☐ Other than small entity-fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):

☐ has been filed previously on _____.

☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $_____.

☐ has been paid previously on _____.

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $_____ for a small entity or $_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Type or Printed name	Registration Number, If applicable
Address	Telephone Number
Address	

Enclosures:

☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

King & Spalding LLP
401 Congress Avenue
Suite 3200
Austin TX 78701

MAILED
MAY 17 2011
OFFICE OF PETITIONS

In re Application of	:	
Tony Baker	:	
Application No. 11/854,330	:	DECISION ON PETITION
Filed: September 12, 2007	:	
Attorney Docket No. **077940.0105**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 29, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment (Notice) of May 12, 2009, which set a one (1) month or thirty (30) days whichever is longer. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 13, 2009.

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

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

This application is being referred to Technology Center AU 1634 for appropriate action by the Examiner in the normal course of business on the reply received.

JoAnne Burke
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	11854331
Filing Date	12-Sep-2007
First Named Inventor	Michael Cao
Art Unit	3739
Examiner Name	KAITLYN SMITH
Attorney Docket Number	55115100.00024
Title	SYSTEM, METHOD AND APPARATUS FOR PREVENTING REUSE OF MEDICAL INSTRUMENTS

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 34802

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	Michael Knox Vascular Technologies, Inc.
Address	780 CARILLON PARKWAY, SUITE 240
City	CLEARWATER
State	FL
Postal Code	33716
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Woodrow H Pollack/
Name	Woodrow H. Pollack
Registration Number	58908

UNITED STATES 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 21,2011

In re Application of :

Michael Cao

Application No : 11854331

Filed : 12-Sep-2007

Attorney Docket No : 55115100.00024

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 21,2011

The request is **APPROVED.**

The request was signed by Woodrow H. Pollack (registration no. 58908) on behalf of all attorneys/agents associated with Customer Number 34802 . All attorneys/agents associated with Cusotmer Number 34802 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	Michael Knox
Name2	Vascular Technologies, Inc.
Address 1	780 CARILLON PARKWAY, SUITE 240
Address 2	
City	CLEARWATER
State	FL
Postal Code	33716
Country	US

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

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

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ELI LILLY & COMPANY
PATENT DIVISION
P.O. BOX 6288
INDIANAPOLIS IN 46206-6288

MAILED

OCT 19 2011

OFFICE OF PETITIONS

In re Application of	:	
Daniel L. Flynn et al.	:	
Application No. 11/854,354	:	DECISION ON PETITION
Filed: September 12, 2007	:	TO WITHDRAW
Attorney Docket No. X-18451	:	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 5, 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 Elizabeth A. McGraw on behalf of all attorneys/agents associated with customer number 25885. All attorneys/agents associated with customer number 25885 have been withdrawn.

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

The correspondence address has been changed and is copied below.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Deciphera LLC,
c/o Daniel L. Flynn, CEO
643 Massachusetts, Suite 200
Lawrence, KS 66044

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
11/854,354	09/12/2007	Daniel L. Flynn	X-18451

CONFIRMATION NO. 4722

25885
ELI LILLY & COMPANY
PATENT DIVISION
P.O. BOX 6288
INDIANAPOLIS, IN 46206-6288

POWER OF ATTORNEY NOTICE

OC000000050294910

Date Mailed: 10/11/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/05/2011.

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

/kainabinet/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of :
Xingping ZHANG :
Application No. 11/854,362 :
Filed: September 12, 2007 :
Attorney Docket No. **70028USC1** :

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) or 37 C.F.R. § 10.40 filed July 19, 2010.

The request is **DISMISSED**.

A review of the file record indicates that **ALSTON & BIRD, LLP** does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings 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 below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

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

cc: **SYNGENTA BIOTECHNOLOGY, INC.**
PATENT DEPARTMENT
3054 CORNWALLIS ROAD
P.O. BOX 12257
RESEARCH TRIANGLE PARK NC 27709-2257

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

NOV 17 2010

OFFICE OF PETITIONS

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

In re Application of	:	
Setlow et al.	:	DECISION ON PETITION
Application No. 11/854,461	:	TO WITHDRAW
Filed: September 12, 2007	:	FROM RECORD
Attorney Docket No. 1361050-2005.1	:	

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

The request is **APPROVED**.

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

The request was signed by John W. Branch on behalf of all attorneys/agents of record who are associated with Customer Number 20999. All attorneys/agents associated with Customer Number 20999 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee, Wireless Services Corporation, at the address indicated below.

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: WIRELESS SERVICES CORPORATION
C/O SINGLEPOINT
710 2ND AVENUE SUITE 400
SEATTLE WA 98104

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOV 05 2010

OFFICE OF PETITIONS

CICHOSZ & CICHOSZ, PLLC
129 E. COMMERCE
MILFORD MI 48381

In re Application of	:	
Ryan D. Martini et al.	:	
Application No. 11/854,563	:	DECISION ON PETITION
Filed: September 13, 2007	:	
Attorney Docket No. P001008-PTH-CD	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed March 1, 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 2, 2010. A Notice of Abandonment was mailed on October 12, 2010.

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

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

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

This application is being referred to Technology Center AU 3655 for appropriate action by the Examiner in the normal course of business on the reply received October 6, 2010.

/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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GEORGE MASON UNIVERSITY
OFFICE OF TECHNOLOGY TRANSFER, MSN 5G5
4400 UNIVERSITY DRIVE
FAIRFAX, VA 22030

MAILED
AUG 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Deapesh Misra	:	
Application No: 11/854,592	:	DECISION ON PETITION
Filed: September 13, 2007	:	
Attorney Docket No. GMU-07-004U	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 19, 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 18, 2011, as required by the Notice of Allowance and Fee(s) Due mailed April 18, 2011. Accordingly, the application became abandoned on July 19, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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-Collier/
Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

PAT-NO: JP411203081A

DOCUMENT-IDENTIFIER: **JP 11203081 A**

TITLE: OUTPUT DEVICE AND HOST DEVICE

PUBN-DATE: July 30, 1999

INVENTOR-INFORMATION:

NAME	COUNTRY
TANAKA, TATSUYUKI	N/A

ASSIGNEE-INFORMATION:

NAME	COUNTRY
FUJI XEROX CO LTD	N/A

APPL-NO: JP10005409

APPL-DATE: January 14, 1998

INT-CL (IPC): G06F003/12 , G06F012/00

ABSTRACT:

PROBLEM TO BE SOLVED: To prevent restriction management contents from being varied for every output device even if the plural output devices exist on a network.

SOLUTION: An image forming means 13 forming an image corresponding to a request from an outer device on the network 30, a frequency management table 24 for storing a frequency that the image is formed as frequency information for every request origin, a frequency information exchange means 25 transferring frequency with the other output device on the network 30 and a frequency management means 26 updating frequency information in the frequency management table 24 whenever the image forming means 13 forms the image and the frequency information exchange means 25 receives frequency information and transmitting updated frequency information to the other output device are provided of the output device.

COPYRIGHT: (C)1999,JPO

DERWENT-ACC-NO: **1999-483511**

DERWENT-WEEK: 200544

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TITLE: Output device e.g. network printer for network e.g. LAN has printing frequency managing unit which updates frequency information stored in frequency management table when frequency information-exchange unit receives frequency information

INVENTOR: TANAKA T

PATENT-ASSIGNEE: FUJI XEROX CO LTD[XERF]

PRIORITY-DATA: 1998JP-005409 (January 14, 1998)

PATENT-FAMILY:

PUB-NO	PUB-DATE	LANGUAGE
JP **11203081** A	July 30, 1999	JA
JP 3661385 B2	June 15, 2005	JA

APPLICATION-DATA:

PUB-NO	APPL-DESCRIPTOR	APPL-NO	APPL-DATE
JP 11203081A	N/A	1998JP-005409	January 14, 1998
JP 3661385B2	Previous Publ	1998JP-005409	January 14, 1998

INT-CL-CURRENT:

TYPE	IPC DATE
CIPP	G06 F 3/12 20060101

CIPS G06 F 12/00 20060101

CIPS G06 F 13/00 20060101

ABSTRACTED-PUB-NO: JP **11203081** A

BASIC-ABSTRACT:

NOVELTY - The output device (10a-10c) has a printing frequency managing unit (26) which updates frequency information stored in a frequency management table (24) when a frequency information-exchange unit (25) receives frequency information. The frequency management table stores the frequency of the image formation by an image forming unit (13) as frequency information for every request origin of the process demand. DETAILED DESCRIPTION - The image forming unit performs an image formation depending on the process demand from an external device, e.g. host computer, on the network (30). The printing frequency managing unit updates the frequency information in the frequency management table if the image forming unit performs an image formation. The updated frequency information is transmitted to another output device. The frequency information-exchange unit receives frequency information from other output device. An INDEPENDENT CLAIM is included for a host apparatus e.g. printer server.

USE - For network e.g. LAN.

ADVANTAGE - Prevents variation of content of limitation management for every output device even when several output devices exist in the network, thus ensuring efficient overall image formation of the system. Convenient since the user does not need to know the situation of each output device and does not need to publish a job uniformly. DESCRIPTION OF DRAWING(S) - The figures include a diagram showing the schematic components of the entire output device and a diagram showing the schematic component of the main control unit in the output device. (10a-10c) Output device; (13) Image forming unit; (24) Frequency management table; (25) Frequency information-exchange unit; (26) Printing frequency managing unit; (30) Network.

CHOSEN-DRAWING: Dwg.1/7

TITLE-TERMS: OUTPUT DEVICE NETWORK PRINT LAN FREQUENCY MANAGE UNIT UPDATE INFORMATION STORAGE MANAGEMENT TABLE EXCHANGE RECEIVE

DERWENT-CLASS: T01

EPI-CODES: T01-C05A; T01-H;

SECONDARY-ACC-NO:

Non-CPI Secondary Accession Numbers: 1999-360541

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Notes:
1. Untranslatable words are replaced with asterisks (****).
2. Texts in the figures are not translated and shown as it is.

Translated: 12:11:18 JST 08/10/2011
Dictionary: Last updated 07/13/2011 / Priority: 1. Information communication technology (ICT) / 2. Electronic engineering

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FULL CONTENTS

[Claim(s)]

[Claim 1]An output unit used on a network where two or more output units are connected mutually, comprising:
An image forming means which performs image formation according to a processing demand from an external device linked to said network.
A frequency management table in which said image forming means memorizes frequency which performed image formation as frequency information for every demand origin of said processing demand.
A frequency management tool which will update frequency information in said frequency management table if said image forming means performs image formation.
A frequency information exchanging means which will receive this if frequency information which said frequency management tool updated is transmitted to other output units on said network and there is transmission of frequency information from an output unit besides the above.

[Claim 2]A host device used on a network where two or more output units which perform image formation are connected, comprising:
A processing controlling means which makes either of said two or more output units perform this processing demand when there is a processing demand of image formation to said output unit.
A frequency management table in which each of two or more of said output units memorizes frequency which performed image formation as frequency information for every demand origin of said processing demand.
A frequency management tool which will update applicable frequency information in said frequency management table if said processing controlling means makes either of said two or more output units perform a processing demand.

[Detailed Description of the Invention]

[0001]

[Field of the Invention]

This invention relates to the output unit used on the network where two or more things are connected especially mutually with respect to the output unit which outputs by performing image formation. This invention relates to the host device used on the network where two or more output units are connected.

[0002]

[Description of the Prior Art]

In recent years, the output unit used on a network is widely used like the network printer with the spread of LAN (local area network) etc. As art about such an output unit, there is a printer currently indicated by JP,H6-324821,A, for example. In the printer indicated by this, two or more terminal units are connected

on the network, [and the thing established for fee collection full limits, the number of times of a use limit of each priority, etc. for every user when the processing demand of the image formation by at least one user is published with the priority of the processing demand, etc. from each terminal unit] Restriction is given to the processing demand with a high priority, it prevents a specific user performing a processing demand of an always high priority, and each user is enabled to use it impartially.
[0003]
[Problem to be solved by the invention]
However, in the conventional printer mentioned above, in order to record and manage the restriction to a processing demand for every printer, when two or more printers are connected on the network, a problem which is described below will arise.
[0004]For example, in one printer on a network, if the limit where the processing demand from a certain user is set up is reached, with the printer, it will come to receive all processing demands from said a certain user with the minimum priority after it. If other printers on a network omit restriction to said a certain user at this time, the way where said a certain user gave the processing demand with the high priority to other printers can obtain the result of image formation at an early stage.
[0005]That is, when two or more printers exist [the conventional printer mentioned above] on a network, in order for each printer to perform restriction management to a processing demand uniquely, The contents of restriction management to every printer will show variation, and it will be very difficult to, perform efficient image formation as the whole system as a result. In order to prevent generating of the variation in the contents of restriction management for every printer, the user who publishes a processing demand grasps the situation of each printer, and publishing a processing demand uniformly is also considered, but. In this case, in order to grasp the situation of each printer, a great burden will be forced upon a user, and it will become very inconvenient to a user as a result.
[0006][000 The purpose of this invention is as follows.
the image formation efficient even if this invention is a case where two or more output units exist on a network for them which prevents variation arising by the contents of restriction management for every output unit -- things.
The output unit and host ****** which will become convenient for a user with **.

[0007]
[Means for solving problem]
[a thing, wherein said both frequency management tools are what will update the frequency information in said frequency management table if said frequency information exchanging means receives frequency information with this invention] The thing used on the network where two or more output units are mutually connected by the output unit thought out to achieve the above objects, comprising:
The image forming means which performs image formation according to the processing demand from the external device linked to said network.
The frequency management table in which said image forming means memorizes the frequency which performed image formation as frequency information for every demand origin of said processing demand.
The frequency management tool which will update the frequency information in said frequency management table if said image forming means performs image formation.
The frequency information exchanging means which will receive this if the frequency information which said frequency management tool updated is transmitted to other output units on said network and there is transmission of frequency information from an output unit besides the above.

[0008]According to the output unit of the above-mentioned composition, if an image forming means performs image formation, a frequency information exchanging means will transmit the frequency information which the frequency management tool updated the frequency information in a frequency management table, and also was updated to other output units on a network. On the other hand, if there is transmission of frequency information from other output units on a network, while a frequency information exchanging means will receive this, a frequency management tool updates the frequency

information in a frequency management table based on the received frequency information. Therefore, if this output unit is used and there is renewal of frequency information by the output unit of either of them even if two or more output units exist on a network, renewal of frequency information will be performed other output units. Therefore, the frequency information which the frequency management table of each output unit memorizes will become the same, and it will be lost that the memory content in a frequency management table shows variation in each output unit.
[0009][00 This invention is the host device invented to achieve the above objects, and this invention is characterized by that business comprises the following on the network where two or more output units which perform image formation are connected.
When it is ** and there is a processing demand of image formation to said output unit, either of said two or more output units is made to perform the processing demand.
Frequency which remembers the frequency to which each of two or more of said output units performed image formation to be a control means as frequency information for every demand origin of said processing demand.
If a table and said processing controlling means make either of said two or more output units perform a processing demand, the frequency information in said frequency management table will be updated.

[0010]When there is a processing demand of image formation to an output unit, a processing controlling means makes one on a network of output units perform the processing demand according to the host device of the above-mentioned composition. And if a processing controlling means performs the processing demand, a frequency management tool will update the frequency information about the demand origin of the processing demand, i.e., the applicable frequency information in a frequency management table. Therefore, if this host device is used, even if two or more output units exist on a network, Since the frequency information on each output unit is memorized by the frequency management table for every demand origin of a processing demand and the memory content is moreover updated by the frequency management tool, each output unit does not need to manage frequency information individually. That is, it is lost like [when each output unit has managed frequency information individually] that frequency information shows variation in each output unit.
[0011]
[Mode for carrying out the invention]
Hereafter, based on Drawings, the output unit and host device concerning this invention are explained.
[0012][A 1st embodiment] This embodiment explains the output unit concerning this invention. However, the case where this invention is applied to the printer which performs printing processing on a network is mentioned as an example, and here explains it.
[0013]The printer of this embodiment is used in a network system as constituted as shown in drawing 1, and shown in drawing 2. Here, the network system with which the printer of this embodiment is used is explained.
[0014]This network system is ** constituted with the network (communication line) 30 which connects these with two or more host computers 1a, 1b, and 1c, 1d--, and two or more printers 10a and 10b and 10c-- mutually, as shown in drawing 2.
[0015][the host computers 1a, 1b, and 1c and 1d--] Each consists of personal computers etc. and publishes the execution demand (a job is called hereafter) of printing processing to the printers 10a and 10b and 10c-- according to operation of at least one registered user (use permission was given). That is, each host computers 1a, 1b, and 1c and 1d-- function as an external device in this invention.
[0016]**, such as printing data used as the basis of printing processing, information about the priority of the printing processing, and information (for example, use ID) for specifying the user who becomes the demand origin of the printing processing, shall be contained in each host computers 1a, 1b, and 1c and the job which 1d-- publishes.
[0017]On the other hand, the printers 10a and 10b and 10c-- are constituted as each shows drawing 1 (a). Namely, the external interface (it abbreviates to I/F hereafter) control section 11 for performing communication with other devices on the network 30, The image memory 12 for storing temporarily the

printing data etc. which should be outputted, The image formation part 13 which forms a picture from printing data and is printed on a paper as a visible image, The image forming control part 14 for controlling the printing processing in this image formation part 13, It has the control panel 15 for a user to operate it, the composite panel control section 16 for controlling this control panel 15, the main control part 20 for controlling this whole printer, and the bus 17 that connects these each part of each other, and is constituted.

[0018][the main control part 20 among these each part] As shown in drawing 1 (b), [besides CPU(Central Processing Unit) 21 and ROM(Read OnlyMemory) 22 used as a main control section, and RAM(Random Access Memory) 23] It has the printing frequency management table 24, the frequency information exchanging means 25, and the printing frequency management tool 26.

[0019]The printing frequency management table 24 was formed using memories, such as RAM, and as shown, for example in drawing 3, it is memorized for every user by whom the image formation part 13 is beforehand registered considering image formation as information about the performed frequency in "printing frequency" and a "printing limit."

[0020]Each user is the frequency to which which expresses the accumulation track record whether to have required printing processing, and printing frequency is updated whenever execution of a job is completed. Printing frequency uses the number of sheets of the paper which it is provided in a meaning and was specifically printed within the network system as it is, or, [number of sheets] [frequency] Or the size of a paper, the added value (****** [that it is a color output demand] etc.) of job contents, the priority of a job, etc. may perform a weighting. A printing limit is a value which expresses the printing frequency permitted to each user, and is beforehand set up for every user.

[0021]In drawing 1 (b), execution of the predetermined program in CPU is realized and the frequency information exchanging means 25 is a thing for [with other printers 10a and 10b on the network 30, and 10c--] transmitting and receiving printing frequency via the external I/F control section 11 in between. That is, in the frequency information exchanging means 25, other printers are told about what printing frequency should be updated for, or the notices of the purport that printing frequency should be updated are received from other printers.

[0022]Execution of the predetermined program in CPU is realized like the frequency information exchanging means 25, and the printing frequency management tool 26 manages the memory content of the printing frequency management table 24. By the printing frequency management tool 26, the printing frequency in the printing frequency management table 24 is cleared, or, specifically, a printing limit is set up. While updating the printing frequency of the user of the issue origin of the job according to the job which printing by the image formation part 13 ended, it directs to the frequency information exchanging means 25 so that other printers may be told about what the printing frequency should be updated for. The frequency information exchanging means 25 received, and also the printing frequency in the printing frequency management table 24 is updated based on the information from a printer.

[0023]The printing frequency management tool 26 performs restriction management of a job as one of the managements of the printing frequency management table 24. For example, when a job is published from a certain user, the printing frequency management tool 26 checks whether the user's printing frequency is beyond the printing limit, and performs restriction management about the job published by the result. When printing frequency is beyond the printing limit, specifically, it performs receiving the priority of the job with the minimum priority irrespective of the contents of specification.

[0024]Next, in the printers 10a and 10b and 10c-- which were constituted as mentioned above, the example of processing operation in the case of performing printing processing is explained, referring to the flow chart of drawing 4. However, in order to explain simply, the printing processing in one certain printer 10a is mentioned as an example, and is explained here.

[0025]In the printer 10a, it hits performing printing processing and the frequency information exchanging means 25 checks first whether the information about printing frequency is received from other printers 10b and 10c-- (Step 101 and a following step are abbreviated to S). If the frequency information exchanging means 25 has received the information about printing frequency here, the printing frequency management tool 26 will update the printing frequency in the printing frequency management table 24

based on the received information (S102). The printing frequency about a user specifically specified using the received information is added by the frequency specified using the information similarly received. And it is again checked after updating whether there is any reception of the information about printing frequency (S101).

[0026]If it checks whether the printing frequency management tool 26 has a job which should be processed if there is no reception of the information about printing frequency (S103) and there is no job, an above-mentioned step will be repeated again (S101-S103). On the other hand, when there is a job which should be processed, the printing frequency management tool 26 checks the information about the printing frequency about the user of the issue origin of the job (S104). What is necessary is just to perform this check based on the use ID etc. which are contained in the job, and the contents of the printing frequency management table 24.

[0027]If the printing frequency about that user is beyond the printing limit as a result of this check, the minimum priority shall be set to that job irrespective of the priority information by which the printing frequency management tool 26 is included in that job. However, if printing frequency is not beyond the printing limit, it is considered as as [the priority information included in a job]. And the main control part 20, the image forming control part 14, and the image formation part 13 perform printing processing directed by the job according to the priority of a job (S105). And printing processing is continued until all the printing processings by the job are completed (S106).

[0028]Then, after the printing processing by one job is completed, the printing frequency management tool 26 updates the printing frequency in the printing frequency management table 24 at the time (S107). According to the notice from the image forming control part 14 of the purport that printing processing was completed, the printing frequency management tool 26 computes the printing frequency which should be added by the end of the job based on the number of sheets etc. of the printed paper, and, specifically, adds the computed result to the printing frequency in the printing frequency management table 24.

[0029]It can come, simultaneously the printing frequency management tool 26 is directed to the frequency information exchanging means 25 so that other printers 10b and 10c-- may be told about the use ID etc. which should add the computed printing frequency and this printing frequency as information about printing frequency. Thereby, the frequency information exchanging means 25 notifies what printing frequency should be updated for via the external I/F control section 11 to other printers 10b and 10c-- (S108). And in order to perform printing processing about a new job, it returns to the step (S101) which checks again whether there is any reception of the information about printing frequency.

[0030]By performing such processing operation, the contents of the printing frequency management table 24 can be made into other printers 10b on the network 30, and the same contents as 10c-- with the printer 10a. Therefore, if there is renewal of printing frequency in either of them even if two or more printers 10a and 10b and 10c-- exist on the network 30, renewal of printing frequency will be performed by other printers. Therefore, all of each printers 10a and 10b and the printing frequency of 10c-- which the printing frequency management table 24 memorizes will become the same, and it will be lost that the memory content in the printing frequency management table 24 shows variation in each printers 10a and 10b and 10c--.

[0031]As mentioned above, in the printers 10a and 10b of this embodiment, and 10c--, the memory content in each printers 10a and 10b and the printing frequency management table 24 in 10c-- does not show variation. That is, even if two or more printers 10a and 10b and 10c-- exist on the network 30, the contents of restriction management of each printers 10a and 10b and every 10c-- do not show variation.

[0032]Therefore, if a network system is constituted from these printers 10a and 10b and 10c--, Printing instruction restrictions are set to one, each user is enabled to use each printers 10a and 10b and 10c-- efficiently, and performing efficient image formation as the whole system as a result can be realized easily. Since the applicability of restriction stops being dependent on each printers 10a and 10b of each user, and the operating condition to 10c--, specifically, [a user] It is lost that the way which will be processed with the same priority even if it publishes a job to which printers 10a and 10b and 10c--, therefore published the job to other printers is able to obtain the result of image formation at an early

stage.
[0033]Printers 10a, 10b, and 10c -- Since generating of the variation in each printers 10a and 10b and the contents of restriction management of every 10c-- is prevented, with communication of a between, A user does not have a thing [a thing] of each printers 10a and 10b and 10c-- a situation is grasped, and it is not necessary to publish a job uniformly, and is forced a great burden like before. It becomes unnecessary that is, for a user to be conscious of his operating condition to each printers 10a and 10b on the network 30, and 10c--, Target function and printers (when a specific function is desired) 10a, 10b, and 10c -- Since a job can be published based on system operating status (when it desires to make it print early), for a user, it will become very more convenient than before.
[0034]Although the case where the printing frequency management tool 26 computed printing frequency uniformly about each user was mentioned as the example and the example of processing operation mentioned above explained it, a weighting may be performed for every printing frequency.
[0035]Here, the case where the weighting by a grouping is considered as a case where printing frequency is computed by having performed such a weighting is mentioned as an example, and is explained. As the user A and the user B said here that it belonged to user-group UGR1 and the user C and the user D belonged to user-group UGR2, for example, The group division of the user registered beforehand is carried out, and he assumes that the degree of premium of the printing frequency to each printer is given for every user group of the. That is, as shown in drawing 5, it shall be set up so that the degrees of premium of the printing frequency to each printer a, b, and c may differ for every user-group UGR2 [UGR].
[0036]In this example of a setting, to a certain printer a, when the user of user-group UGR1 prints, only the part of the usually computed printing frequency is added, but when the user of user-group UGR2 prints, the usually computed printing frequency is added by double. That is, assumption in this example of a setting has ownership (executive responsibility) in user-group UGR2 about printer c another again to user-group UGR1 about a certain printer a, it shall be a thing user shared [all the] about the printer b, and all the users shall use it impartially.
[0037]Thus, it can be said now that fairness for every [about use of each printer on a network] user group is given by performing a weighting to printing frequency and performing frequency management which was conscious of user-group UGR1 and printer possession in every UGR2. That is, while making it possible to perform much more advanced restriction management by introducing an idea of a grouping of a user and a printer, even if it was in this case, as it mentioned above, efficient image formation as the whole system and facilities for a user are realizable.
[0038][A 2nd embodiment] Next, a host device concerning this invention is explained. However, a case where this invention is applied to a printer server which manages two or more printers on a network is mentioned as an example, and here explains it. In this embodiment, about the same component as a 1st embodiment mentioned above, the same numerals are given and the explanation is omitted.
[0039]A printer server of this embodiment is used in a network system as shown in drawing 6. When this network system is a 1st embodiment, the printer server 40 is connected on the network 30.
[0040]The printer server 40 is for consisting of a thing according to a personal computer or this, and carrying out county management of each printers 10a and 10b and 10c--. Namely, if there is issue of the job to the printers 10a and 10b and 10c-- from the host computers 1a, 1b, and 1c on the network 30, and 1d--, [the printer server 40] It is ******** so that one on the network 30 of the printers 10a and 10b and 10c-- may be made to perform this so that details may be mentioned later, once receiving the job.
[0041][the printer server 40 which has such a function] As shown in drawing 7 (a), it has the job storage part 42 which carries out memory accumulation of the job once thought to be the external I/F control section 41 for performing communication with other devices on the network 30, and the main control part 43 for controlling this printer server 40 whole. The main control part 43 is provided with the processing controlling means 47, the printing frequency management table 24, and the printing frequency management tool 26 other than CPU44, ROM45, and RAM46 used as a main control section as shown in drawing 7 (b).
[0042]If execution of the predetermined program in CPU is realized and the processing controlling means

47 has the host computers 1a, 1b, and 1c and a job from 1d--, it will judge which printers 10a and 10b and 10c-- are made to perform the job. This judgment is made as follows. When the printers 10a and 10b and 10c-- which should perform the job in the received job are not specified, It judges [the function which a job makes the purpose, or / of each printers 10a and 10b and 10c--] which printers 10a and 10b and 10c-- are made to perform the job based on system operating status or the memory content of the printing frequency management table 24. When the printers 10a and 10b and 10c-- which should be performed are specified, according to the specification, the printers 10a and 10b and 10c-- which perform a job are judged.

[0043]The printing frequency management table 24 and the printing frequency management tool 26 are the same as that of the case of a 1st embodiment. However, in this embodiment, the printing frequency management tool 26 updates the printing frequency in the printing frequency management table 24 according to the decision result by the processing controlling means 47.

[0044]Next, the example of processing operation in the printer server 40 constituted as mentioned above is explained, referring to the flow chart of drawing 8.

[0045]In the printer server 40, the processing controlling means 47 first checks whether there is any issue of a job from the host computers 1a, 1b, and 1c on the network 30, and 1d-- (S201). Printers 10a, 10b, and 10c which the processing controlling means 47 will receive [printers] the job, and will perform the job here if there is a job -- It judges (S202). At this time, the printing frequency management tool 26 checks the printing frequency about the user of the issue origin of that job, and a printing limit (S203), and notifies the result of that check to the processing controlling means 47 if needed.

[0046]If the printers 10a and 10b and 10c-- which perform a job are judged, the processing controlling means 47 transmits the job to one used as a real destination of the printers 10a and 10b, and 10c-- (S204), and it will continue it until transmission of the job ends this (S205).

[0047]And after transmission of one job is completed, the printing frequency management tool 26 updates the printing frequency in the printing frequency management table 24 at the time (S206). The printing frequency management tool 26 computes the printing frequency which should be added by the end of transmission of the job according to the notice from the external I/F control section 41 of the purport that transmission of the job was completed, and, specifically, adds the computed result to the printing frequency in the printing frequency management table 24. And in order to perform printing processing about a new job, it returns to the step (S201) which checks again whether there is any issue of a job.

[0048]By performing such processing operation, the printing frequency management table 24 will memorize each printers 10a and 10b on the network 30, and the printing frequency about 10c-- with the printer server 40. That is, if there is renewal of printing frequency about either of them even if two or more printers 10a and 10b and 10c-- exist on the network 30, the contents of the printing frequency management table 24 which manages each printing frequency in a unified manner will be updated. Therefore, it is lost that each printers 10a and 10b and the printing frequency about 10c-- show variation.

[0049]As mentioned above, in the printer server 40 of this embodiment, since each printers 10a and 10b and the printing frequency about 10c-- are managed in a unified manner, the contents of restriction management of each printers 10a and 10b and every 10c-- do not show variation. Therefore, if a network system is constituted using this printer server 40, like the case of a 1st embodiment, performing efficient image formation as the whole system can be realized easily, and, moreover, it will become very more convenient than before for a user.

[0050]

[Effect of the Invention]As explained above, even if the output unit and host device of this invention are a case where two or more output units exist on a network, they prevent the contents of restriction management for every output unit showing variation. Therefore, if the output unit or host device of this invention is used, even if a user publishes a job to which output unit, for example, it will be processed similarly, and performing efficient image formation as the whole system can be realized easily. Since a user does not need to grasp the situation of each output unit and does not need to publish a job uniformly, a great burden is not forced upon a user like before, and it will become very more convenient than before

for a user as a result.

[Brief Description of the Drawings]

[Drawing 1]It is a block diagram showing the outline composition of an example of the embodiment of the output unit concerning this invention, and the figure in which (a) shows the outline composition of the whole output unit, and (b) are the figures showing the outline composition of the main control part in an output unit.

[Drawing 2]It is a block diagram showing the outline composition of an example of the network system with which the output unit of drawing 1 is used.

[Drawing 3]It is an explanatory view showing the example of the information about printing frequency.

[Drawing 4]It is a flow chart which shows the example of processing operation in the case of performing printing processing by the output unit of drawing 1.

[Drawing 5]It is an explanatory view showing the example at the time of considering the weighting by a grouping to printing frequency.

[Drawing 6]It is a block diagram showing the outline composition of an example of the network system with which the host device concerning this invention is used.

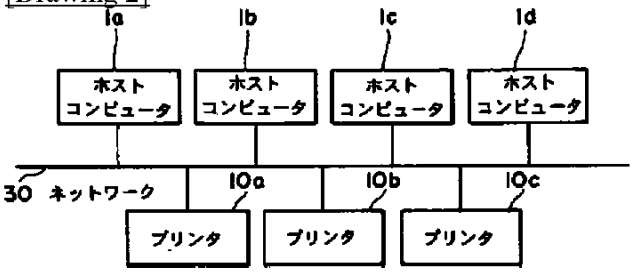
[Drawing 7]It is a block diagram showing the outline composition of an example of the embodiment of the host device concerning this invention, and the figure in which (a) shows the outline composition of the whole host device, and (b) are the figures showing the outline composition of the main control part in a host device.

[Drawing 8]It is a flow chart which shows the example of processing operation in the host device of drawing 7.

[Explanations of letters or numerals]

1a, 1b, 1c, 1d -- A host computer (external device), 10a, 10b, 10c -- Printer (output unit), 13 [-- A printing frequency management table 25 / -- A frequency information exchanging means, 26 / -- A printing frequency management tool, 30 / -- A network (communication line), 40 / -- A printer server (host device), 42 / -- A main control part, 46 / -- Processing controlling means] -- An image formation part, 14 -- An image forming control part, 20 -- A main control part, 24

[Drawing 2]



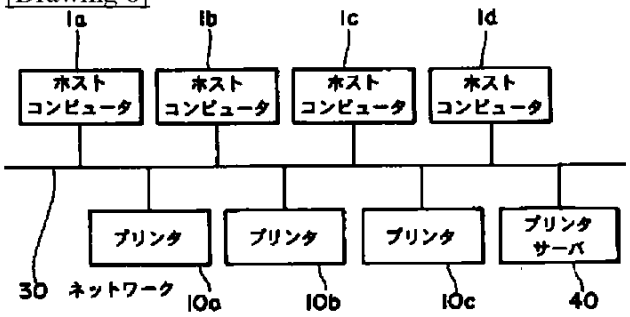
[Drawing 3]

ユーザ	印字度数	印字頻度
A	20	1000
B	30	1000
C	70	1000
D	50	1000
…	…	…

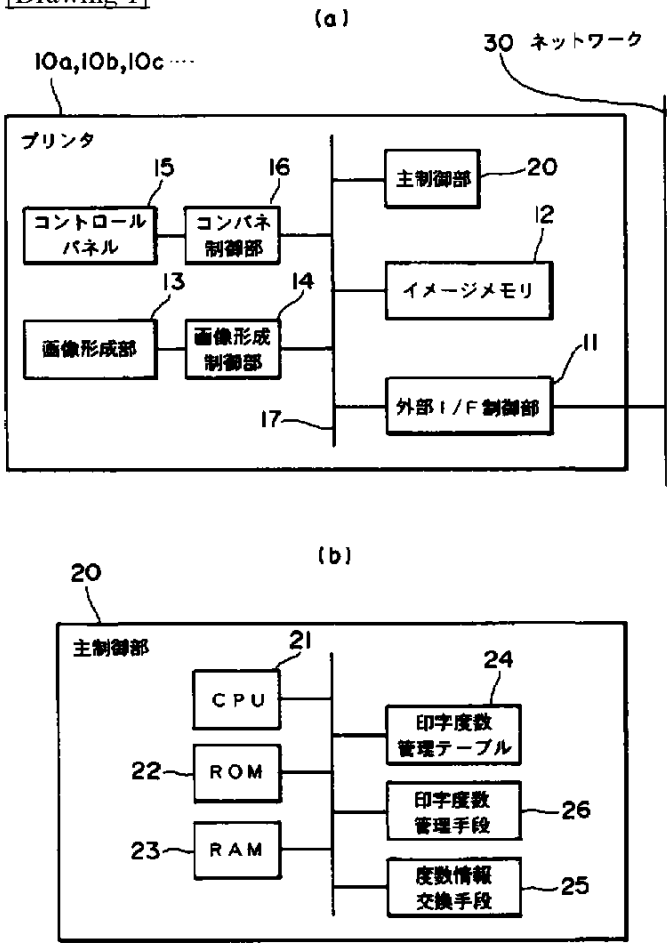
[Drawing 5]

ユーザグループ	印字度数の割増し度		
	プリンタa	プリンタb	プリンタc
UGR1	1	1	2
UGR2	2	1	1
…	…	…	…

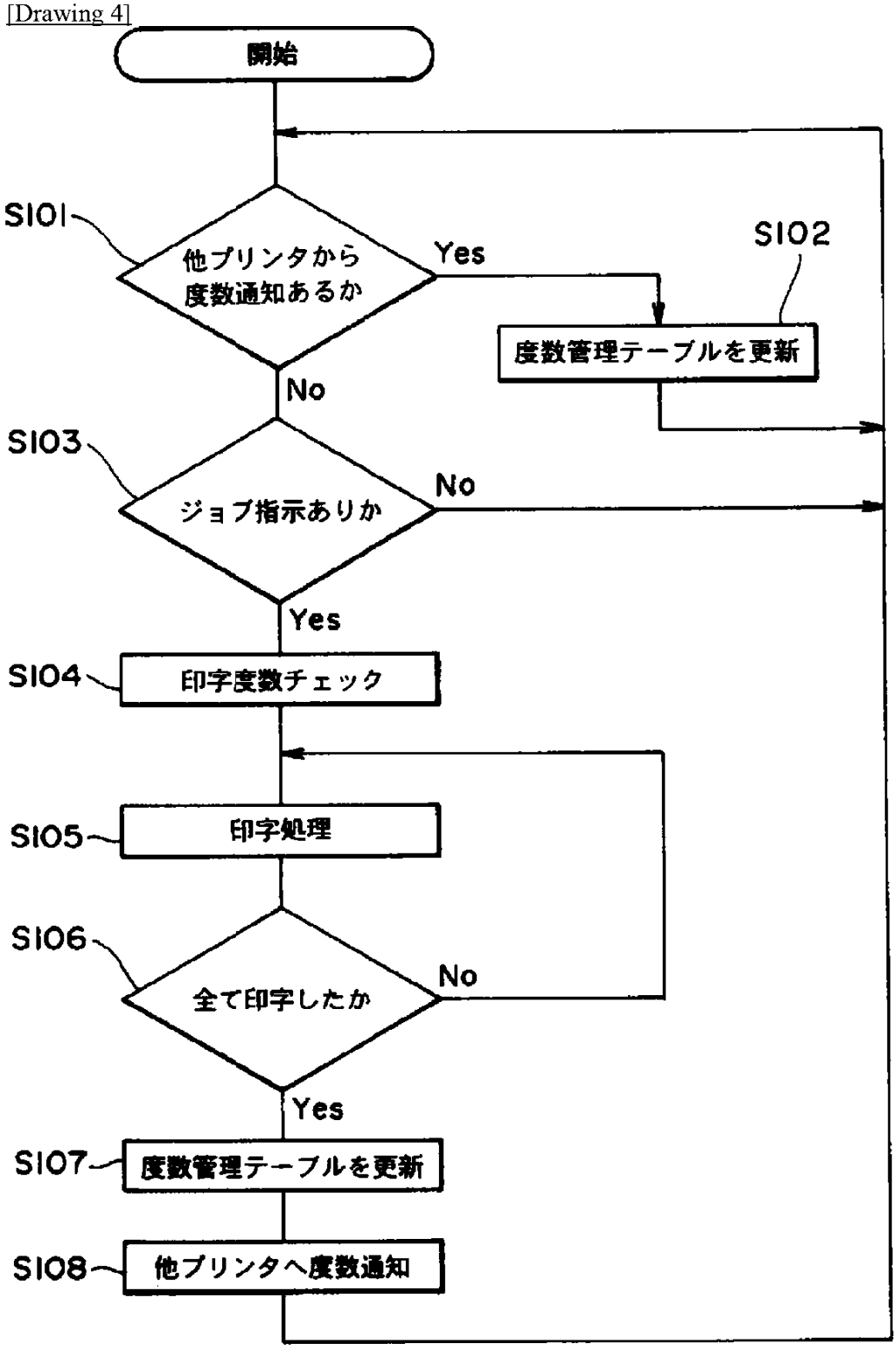
[Drawing 6]



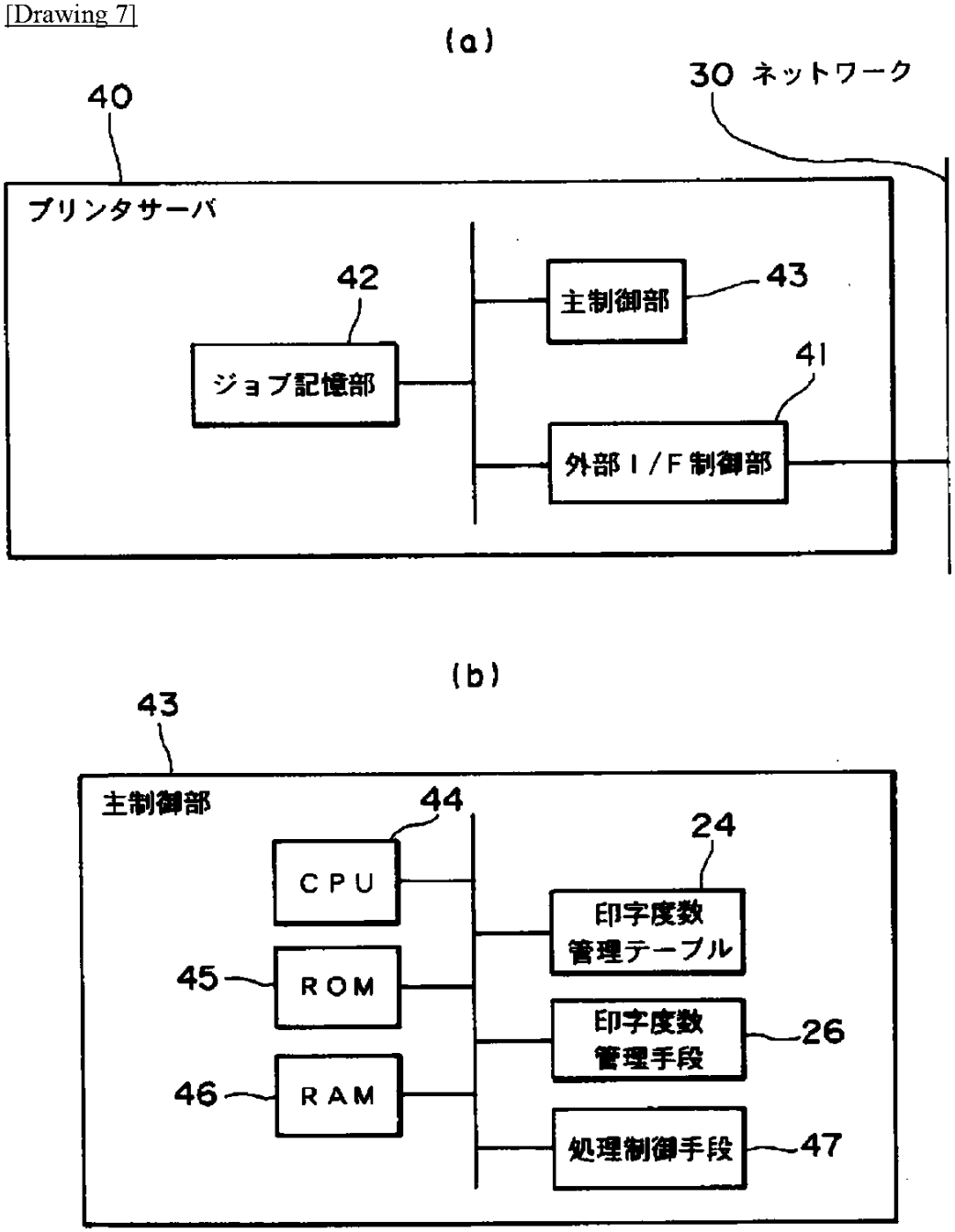
[Drawing 1]



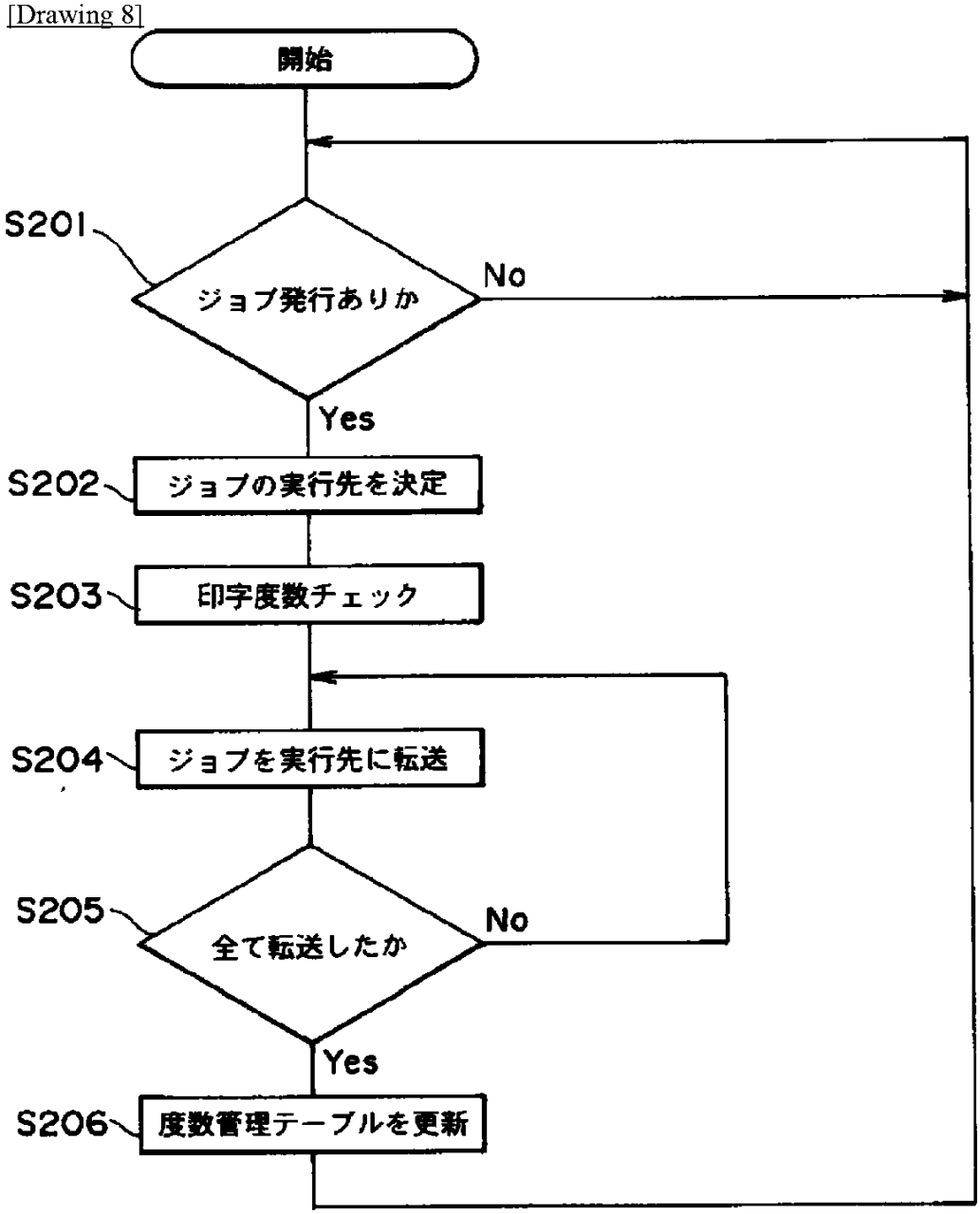
[Drawing 4]


開始
S101
他プリンタから度数通知あるか
Yes
S102
度数管理テーブルを更新
No
S103
ジョブ指示ありか
No
Yes
S104
印字度数チェック
S105
印字処理
S106
全て印字したか
No
Yes
S107
度数管理テーブルを更新
S108
他プリンタへ度数通知

[Drawing 7]


(a)
30 ネットワーク
40
プリンタサーバ
42
ジョブ記憶部
主制御部
43
41
外部 I / F 制御部
(b)
43
主制御部
44
CPU
45
ROM
46
RAM
24
印字度数
管理テーブル
印字度数
管理手段
26
処理制御手段
47

[Drawing 8]



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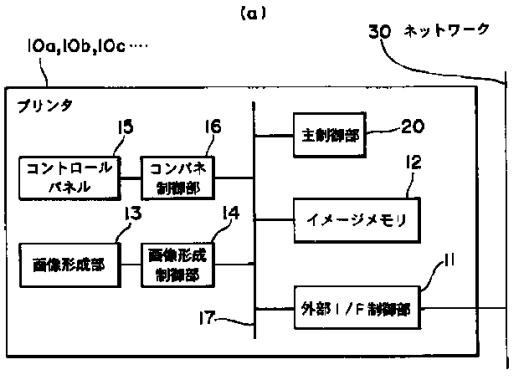
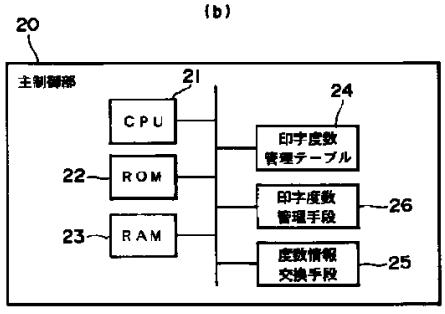
(54)【発明の名称】　出力装置およびホスト装置

(57)【要約】
【課題】　ネットワーク上に複数の出力装置が存在する場合であっても、各出力装置毎の制限管理内容にばらつきが生じてしまうのを防ぐ。
【解決手段】　ネットワーク３０上の外部装置からの処理要求に応じて画像形成を行う画像形成手段１３と、画像形成を行った度数を前記処理要求の要求元毎に度数情報として記憶する度数管理テーブル２４と、ネットワーク３０上の他の出力装置との間で度数情報の授受を行う度数情報交換手段２５と、画像形成手段１３が画像形成を行う度および度数情報交換手段２５が度数情報を受け取る度に度数管理テーブル２４内の度数情報を更新し、かつ、更新した度数情報を前記他の出力装置へ送信する度数管理手段２６と、を備えて出力装置を構成する。





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【特許請求の範囲】

【請求項１】　複数の出力装置が互いに接続されるネットワーク上にて用いられる出力装置であって、

前記ネットワークに接続する外部装置からの処理要求に応じて画像形成を行う画像形成手段と、

前記画像形成手段が画像形成を行った度数を前記処理要求の要求元毎に度数情報として記憶する度数管理テーブルと、

前記画像形成手段が画像形成を行うと前記度数管理テーブル内の度数情報を更新する度数管理手段と、

前記度数管理手段が更新した度数情報を前記ネットワーク上の他の出力装置へ送信し、かつ、前記他の出力装置から度数情報の送信があるとこれを受信する度数情報交換手段とを備えるとともに、

前記度数管理手段は、前記度数情報交換手段が度数情報を受信すると前記度数管理テーブル内の度数情報を更新するものであることを特徴とする出力装置。

【請求項２】　画像形成を行う複数の出力装置が接続されるネットワーク上にて用いられるホスト装置であって、

前記出力装置に対する画像形成の処理要求があると該処理要求を前記複数の出力装置のうちのいずれかに実行させる処理制御手段と、

前記複数の出力装置のそれぞれが画像形成を行った度数を前記処理要求の要求元毎に度数情報として記憶する度数管理テーブルと、

前記処理制御手段が前記複数の出力装置のいずれかに処理要求を実行させると前記度数管理テーブル内の該当する度数情報を更新する度数管理手段とを備えることを特徴とするホスト装置。

【発明の詳細な説明】

【０００１】

【発明の属する技術分野】本発明は、画像形成を行って出力する出力装置に係わり、特に複数のものが互いに接続されるネットワーク上にて用いられる出力装置に関するものである。また、本発明は、複数の出力装置が接続されるネットワーク上にて用いられるホスト装置に関するものである。

【０００２】

【従来の技術】近年、ＬＡＮ（ローカルエリアネットワーク）等の普及に伴い、例えばネットワークプリンタなどのように、ネットワーク上にて用いられる出力装置が広く利用されている。このような出力装置に関する技術としては、例えば特開平６－３２４８２１号公報に開示されているプリンタがある。これに開示されたプリンタでは、ネットワーク上に複数の端末装置が接続されており、しかも各端末装置から少なくとも１人のユーザによる画像形成の処理要求がその処理要求の優先度等と共に発行される場合に、ユーザ毎に課金限界値や各優先度の使用限度回数等を設けることで、高優先度での処理要求に制限を与え、特定ユーザが常に高い優先度の処理要求を行うことを防ぎ、各ユーザが公平に使用することを可能にしている。

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【０００３】

【発明が解決しようとする課題】しかしながら、上述した従来のプリンタでは、処理要求に対する制限をプリンタ毎に記録・管理するようになっているため、ネットワーク上に複数のプリンタが接続されている場合には、以下に述べるような問題点が生じてしまう。

【０００４】例えば、ネットワーク上の一つのプリンタにおいて、あるユーザからの処理要求が設定されている限度に達してしまうと、そのプリンタでは、それ以降、前記あるユーザからの処理要求をすべて最低の優先度で受け付けるようになる。このとき、ネットワーク上の他のプリンタが前記あるユーザに対する制限を行っていなければ、前記あるユーザは、他のプリンタに対して高優先度で処理要求を与えたほうが早期に画像形成の結果を得られることとなる。

【０００５】つまり、上述した従来のプリンタでは、ネットワーク上に複数のプリンタが存在する場合に、各プリンタで独自に処理要求に対する制限管理を行うため、各プリンタ毎に制限管理の内容にばらつきが生じてしまい、その結果システム全体として効率の良い画像形成を行うことが非常に困難となってしまう。また、各プリンタ毎の制限管理内容のばらつきの発生を防ぐために、処理要求を発行するユーザが各プリンタの状況を把握して、処理要求の発行を均一に行うことも考えられるが、この場合には、各プリンタの状況を把握するためにユーザに多大な負担を強いることとなり、結果としてユーザにとって非常に不便なものとなってしまう。

【０００６】そこで、本発明は、ネットワーク上に複数の出力装置が存在する場合であっても、各出力装置毎の制限管理内容にばらつきが生じてしまうのを防ぎ、効率の良い画像形成を可能にするとともに、ユーザにとって便利なものとなる出力装置およびホスト装置を提供することを目的とする。

【０００７】

【課題を解決するための手段】本発明は、上記目的を達成するために案出された出力装置で、複数の出力装置が互いに接続されるネットワーク上にて用いられるものであって、前記ネットワークに接続する外部装置からの処理要求に応じて画像形成を行う画像形成手段と、前記画像形成手段が画像形成を行った度数を前記処理要求の要求元毎に度数情報として記憶する度数管理テーブルと、前記画像形成手段が画像形成を行うと前記度数管理テーブル内の度数情報を更新する度数管理手段と、前記度数管理手段が更新した度数情報を前記ネットワーク上の他の出力装置へ送信し、かつ、前記他の出力装置から度数情報の送信があるとこれを受信する度数情報交換手段とを備えるとともに、前記度数管理手段は、前記度数情報

交換手段が度数情報を受信すると前記度数管理テーブル内の度数情報を更新するものであることを特徴とするものである。

【０００８】上記構成の出力装置によれば、画像形成手段が画像形成を行うと、度数管理手段が度数管理テーブル内の度数情報を更新し、さらには更新した度数情報を度数情報交換手段がネットワーク上の他の出力装置へ送信する。一方、ネットワーク上の他の出力装置から度数情報の送信があると、度数情報交換手段がこれを受信するとともに、受信した度数情報を基に度数管理手段が度数管理テーブル内の度数情報を更新する。したがって、この出力装置を用いれば、ネットワーク上に複数の出力装置が存在していても、そのうちのいずれかの出力装置で度数情報の更新があると、他の出力装置でも度数情報の更新が行われる。そのため、各出力装置の度数管理テーブルが記憶する度数情報は同一のものとなり、各出力装置で度数管理テーブル内の記憶内容にばらつきが生じてしまうことがなくなる。

【０００９】また、本発明は、上記目的を達成するために案出されたホスト装置で、画像形成を行う複数の出力装置が接続されるネットワーク上にて用いられるものであって、前記出力装置に対する画像形成の処理要求があるとその処理要求を前記複数の出力装置のうちのいずれかに実行させる処理制御手段と、前記複数の出力装置のそれぞれが画像形成を行った度数を前記処理要求の要求元毎に度数情報として記憶する度数管理テーブルと、前記処理制御手段が前記複数の出力装置のいずれかに処理要求を実行させると前記度数管理テーブル内の度数情報を更新する度数管理手段とを備えることを特徴とするものである。

【００１０】上記構成のホスト装置によれば、出力装置に対する画像形成の処理要求があると、処理制御手段がその処理要求をネットワーク上のいずれかの出力装置に実行させる。そして、処理制御手段がその処理要求を実行させると、度数管理手段がその処理要求の要求元に関する度数情報、すなわち度数管理テーブル内の該当する度数情報を更新する。したがって、このホスト装置を用いれば、ネットワーク上に複数の出力装置が存在していても、各出力装置の度数情報が処理要求の要求元毎に度数管理テーブルに記憶され、しかもその記憶内容が度数管理手段によって更新されるので、各出力装置が個別に度数情報を管理する必要がない。つまり、各出力装置が個別に度数情報を管理している場合のように、各出力装置で度数情報にばらつきが生じてしまうことがなくなる。

【００１１】

【発明の実施の形態】以下、図面に基づき本発明に係わる出力装置およびホスト装置について説明する。

【００１２】〔第１の実施の形態〕本実施の形態では、本発明に係わる出力装置について説明する。ただし、ここでは、ネットワーク上において印字処理を行うプリンタに本発明を適用した場合を例に挙げて説明する。

【００１３】本実施の形態のプリンタは、図１に示すように構成されたものであり、また、図２に示すようなネットワークシステムにおいて用いられるものである。ここで、本実施の形態のプリンタが用いられるネットワークシステムについて説明する。

【００１４】このネットワークシステムは、図２に示すように、複数のホストコンピュータ１ａ，１ｂ，１ｃ，１ｄ…と、複数のプリンタ１０ａ，１０ｂ，１０ｃ…と、これらを互いに接続するネットワーク（通信回線）３０と、から構成されているものである。

【００１５】ホストコンピュータ１ａ，１ｂ，１ｃ，１ｄ…は、それぞれが、パーソナルコンピュータ等からなるもので、少なくとも１人の登録された（使用許可が与えられた）ユーザの操作に従って、プリンタ１０ａ，１０ｂ，１０ｃ…に対して印字処理の実行要求（以下、ジョブと称す）を発行するものである。すなわち、各ホストコンピュータ１ａ，１ｂ，１ｃ，１ｄ…は、本発明における外部装置として機能するものである。

【００１６】なお、各ホストコンピュータ１ａ，１ｂ，１ｃ，１ｄ…が発行するジョブには、印字処理の基となる印字データ、その印字処理の優先度についての情報、その印字処理の要求元となるユーザを特定するための情報（例えばユーザＩＤ）等、が含まれているものとする。

【００１７】一方、プリンタ１０ａ，１０ｂ，１０ｃ…は、それぞれが、図１（ａ）に示すように構成されているものである。すなわち、ネットワーク３０上の他の装置との通信を行うための外部インタフェース（以下、Ｉ／Ｆと略す）制御部１１と、出力すべき印字データ等を一時的に格納するためのイメージメモリ１２と、印字データから画像を形成して可視画像として用紙上に印字する画像形成部１３と、この画像形成部１３における印字処理を制御するための画像形成制御部１４と、ユーザが操作するためのコントロールパネル１５と、このコントロールパネル１５を制御するためのコンパネ制御部１６と、このプリンタ全体を制御するための主制御部２０と、これらの各部を互いに接続するバス１７と、を備えて構成されている。

【００１８】さらに、これらの各部のうち、主制御部２０は、図１（ｂ）に示すように、主たる制御部となるＣＰＵ（Central Processing Unit）２１，ＲＯＭ（Read OnlyMemory）２２およびＲＡＭ（Random Access Memory）２３の他に、印字度数管理テーブル２４と、度数情報交換手段２５と、印字度数管理手段２６と、を備えている。

【００１９】印字度数管理テーブル２４は、ＲＡＭ等のメモリを利用して形成されたもので、例えば図３に示すように、「印字度数」および「印字限度」を、画像形成

部１３が画像形成を行った度数に関する情報として、予め登録されているユーザ毎に記憶しているものである。

【００２０】印字度数とは、各ユーザがどれだけ印字処理を要求したかの累積実績を表す度数であり、ジョブの実行が終了する毎に更新されるものである。なお、印字度数は、ネットワークシステム内で一意に定められているもので、具体的には印字した用紙の枚数をそのまま使用したり、あるいは、用紙の大きさやジョブ内容の付加価値（カラー出力要求であるか否か等）やジョブの優先度等により、重み付けを行ったものであってもよい。印字限度とは、各ユーザに対して許容される印字度数を表すもので、各ユーザ毎に予め設定されている値である。

【００２１】また図１（ｂ）において、度数情報交換手段２５は、ＣＰＵでの所定プログラムの実行によって実現されるもので、ネットワーク３０上の他のプリンタ１０ａ，１０ｂ，１０ｃ…との間で外部Ｉ／Ｆ制御部１１を介して印字度数を送受信するためのものである。つまり、度数情報交換手段２５では、印字度数を更新すべきことを他のプリンタに知らせたり、他のプリンタから印字度数を更新すべき旨の通知を受けたりするようになっている。

【００２２】印字度数管理手段２６は、度数情報交換手段２５と同様にＣＰＵでの所定プログラムの実行によって実現されるもので、印字度数管理テーブル２４の記憶内容を管理するものである。具体的には、印字度数管理手段２６では、印字度数管理テーブル２４内の印字度数をクリアしたり、印字限度を設定したりする。また、画像形成部１３による印字が終了したジョブに応じて、そのジョブの発行元のユーザの印字度数を更新するとともに、その印字度数を更新すべきことを他のプリンタに知らせるよう、度数情報交換手段２５へ指示する。さらには、度数情報交換手段２５が受信した他プリンタからの情報を基に印字度数管理テーブル２４内の印字度数を更新する。

【００２３】さらに、印字度数管理手段２６は、印字度数管理テーブル２４の管理の一つとして、ジョブの制限管理を行うものである。例えば、印字度数管理手段２６は、あるユーザからジョブが発行された場合に、そのユーザの印字度数が印字限度を超えていないかを確認し、その結果により、発行されたジョブについての制限管理を行う。具体的には、印字度数が印字限度を超えている場合に、そのジョブの優先度は指定内容に拘わらず最低の優先度で受け付けるといったことを行う。

【００２４】次に、以上のように構成されたプリンタ１０ａ，１０ｂ，１０ｃ…において、印字処理を行う場合の処理動作例について、図４のフローチャートを参照しながら説明する。ただし、ここでは、説明を簡単にするために、ある一つのプリンタ１０ａでの印字処理を例に挙げて説明する。

【００２５】プリンタ１０ａでは、印字処理を行うのにあたって、先ず、度数情報交換手段２５が他のプリンタ１０ｂ，１０ｃ…から印字度数に関する情報を受信しているか否かを確認する（ステップ１０１、以下ステップをＳと略す）。ここで、度数情報交換手段２５が印字度数に関する情報を受信していれば、印字度数管理手段２６は、受信した情報を基に印字度数管理テーブル２４内の印字度数を更新する（Ｓ１０２）。具体的には、受信した情報によって指定されたユーザについての印字度数を、同じく受信した情報によって指定された度数分だけ加算する。そして、更新後、再び、印字度数に関する情報の受信があるか否かを確認する（Ｓ１０１）。

【００２６】印字度数に関する情報の受信がなければ、印字度数管理手段２６は、処理すべきジョブが有るか否かを確認し（Ｓ１０３）、ジョブが無ければ、再び上述のステップを繰り返す（Ｓ１０１～Ｓ１０３）。一方、処理すべきジョブが有る場合には、印字度数管理手段２６は、そのジョブの発行元のユーザについての印字度数に関する情報をチェックする（Ｓ１０４）。このチェックは、ジョブに含まれているユーザＩＤ等と印字度数管理テーブル２４の内容とに基づいて行えばよい。

【００２７】このチェックの結果、そのユーザについての印字度数が印字限度を超えていると、印字度数管理手段２６は、そのジョブに含まれる優先度情報に拘わらず、そのジョブには最低の優先度が設定されているものとする。ただし、印字度数が印字限度を超えていなければ、ジョブに含まれる優先度情報のままとする。そして、主制御部２０，画像形成制御部１４および画像形成部１３は、ジョブの優先度に応じて、そのジョブによって指示される印字処理を行う（Ｓ１０５）。そして、そのジョブによる印字処理が全て終了するまで印字処理を続ける（Ｓ１０６）。

【００２８】その後、一つのジョブによる印字処理が終了すると、その時点で、印字度数管理手段２６は、印字度数管理テーブル２４内の印字度数を更新する（Ｓ１０７）。具体的には、印字処理が終了した旨の画像形成制御部１４からの通知に従い、印字度数管理手段２６は、そのジョブの終了によって加算すべき印字度数を、印字した用紙の枚数等を基に算出し、その算出結果を印字度数管理テーブル２４内の印字度数に加算する。

【００２９】これと同時に、印字度数管理手段２６は、算出した印字度数と、この印字度数を加算すべきユーザＩＤ等を、印字度数に関する情報として、他のプリンタ１０ｂ，１０ｃ…に知らせるよう、度数情報交換手段２５に指示する。これにより、度数情報交換手段２５は、外部Ｉ／Ｆ制御部１１を介して印字度数を更新すべきことを他のプリンタ１０ｂ，１０ｃ…に通知する（Ｓ１０８）。そして、新たなジョブについての印字処理を行うために、再び、印字度数に関する情報の受信があるか否かを確認するステップ（Ｓ１０１）へ戻る。

【００３０】このような処理動作を行うことで、プリン

タ１０ａでは、印字度数管理テーブル２４の内容を、ネットワーク３０上の他のプリンタ１０ｂ，１０ｃ…と同じ内容とすることができる。したがって、ネットワーク３０上に複数のプリンタ１０ａ，１０ｂ，１０ｃ…が存在していても、そのうちのいずれかで印字度数の更新があると、他のプリンタでも印字度数の更新が行われる。そのため、各プリンタ１０ａ，１０ｂ，１０ｃ…の印字度数管理テーブル２４が記憶する印字度数は全て同一のものとなり、各プリンタ１０ａ，１０ｂ，１０ｃ…で印字度数管理テーブル２４内の記憶内容にばらつきが生じてしまうことがなくなる。

【００３１】以上のように、本実施の形態のプリンタ１０ａ，１０ｂ，１０ｃ…では、各プリンタ１０ａ，１０ｂ，１０ｃ…における印字度数管理テーブル２４内の記憶内容にばらつきが生じてしまうことがない。つまり、ネットワーク３０上に複数のプリンタ１０ａ，１０ｂ，１０ｃ…が存在していても、各プリンタ１０ａ，１０ｂ，１０ｃ…毎の制限管理の内容にばらつきが生じてしまうことがない。

【００３２】したがって、これらのプリンタ１０ａ，１０ｂ，１０ｃ…でネットワークシステムを構成すれば、印字指示制限がひとつになり、各ユーザが効率よく各プリンタ１０ａ，１０ｂ，１０ｃ…を使用することが可能となり、結果としてシステム全体として効率の良い画像形成を行うことが容易に実現できる。具体的には、制限の適用性が各ユーザの各プリンタ１０ａ，１０ｂ，１０ｃ…に対する使用状況には依存しなくなるので、ユーザは、どのプリンタ１０ａ，１０ｂ，１０ｃ…に対してジョブを発行しても同様の優先度で処理されることとなり、そのため他のプリンタに対してジョブを発行したほうが早期に画像形成の結果を得られるといったことがなくなる。

【００３３】また、プリンタ１０ａ，１０ｂ，１０ｃ…間における通信によって、各プリンタ１０ａ，１０ｂ，１０ｃ…毎の制限管理内容のばらつきの発生を防いでいるので、ユーザが各プリンタ１０ａ，１０ｂ，１０ｃ…の状況を把握してジョブの発行を均一に行う必要がなく、従来のように多大な負担を強いるようなことがない。つまり、ユーザがネットワーク３０上の各プリンタ１０ａ，１０ｂ，１０ｃ…に対する自分の使用状況を意識する必要がなくなり、目的とする機能（特定の機能を望む場合）やプリンタ１０ａ，１０ｂ，１０ｃ…の稼働状況（早く印字させることを望む場合）を基にジョブを発行することができるので、ユーザにとっては従来よりも非常に便利なものとなる。

【００３４】なお、上述した処理動作例では、印字度数管理手段２６が印字度数を各ユーザについて一律に算出した場合を例に挙げて説明したが、印字度数毎に重み付けを行ったものであってもよい。

【００３５】ここで、このような重み付けを行って印字度数を算出した場合として、グルーピングによる重み付けを加味した場合を例に挙げて説明する。ここでは、例えばユーザＡとユーザＢとがユーザグループＵＧＲ１に属し、ユーザＣとユーザＤとがユーザグループＵＧＲ２に属するといったように、予め登録されているユーザがグループ分けされており、そのユーザグループ毎に各プリンタに対する印字度数の割増し度をつけているものとする。すなわち、図５に示すように、各ユーザグループＵＧＲ１，ＵＧＲ２毎に各プリンタａ，ｂ，ｃに対する印字度数の割増し度が異なるように設定されているものとする。

【００３６】この設定例では、あるプリンタａに対して、ユーザグループＵＧＲ１のユーザが印字を行った場合には通常算出する印字度数の分だけ加算されるが、ユーザグループＵＧＲ２のユーザが印字を行った場合には通常算出する印字度数の２倍分加算される。つまり、この設定例での想定は、あるプリンタａについてはユーザグループＵＧＲ１に、また別のプリンタｃについてはユーザグループＵＧＲ２に所有権（管理責任）があり、プリンタｂについては全ユーザ共有のもので全ユーザが公平に使用できるものとしている。

【００３７】このように、印字度数に重み付けを行って、ユーザグループＵＧＲ１，ＵＧＲ２毎のプリンタ所有を意識した度数管理を行うことにより、ネットワーク上の各プリンタの使用に関するユーザグループ毎の公平性を持たせるといったことができるようになる。つまり、ユーザおよびプリンタのグルーピングの考えを導入することにより、より一層高度な制限管理を行うことを可能にするとともに、この場合であっても上述したように、システム全体として効率の良い画像形成とユーザにとっての便利さとを実現することができる。

【００３８】〔第２の実施の形態〕次に、本発明に係わるホスト装置について説明する。ただし、ここでは、ネットワーク上において複数のプリンタの管理を行うプリンタサーバに本発明を適用した場合を例に挙げて説明する。なお、本実施の形態では、上述した第１の実施の形態と同一の構成要素については、同一の符号を与えてその説明を省略する。

【００３９】本実施の形態のプリンタサーバは、図６に示すようなネットワークシステムにおいて用いられるものである。このネットワークシステムは、第１の実施の形態の場合に加えて、ネットワーク３０上にプリンタサーバ４０が接続されているものである。

【００４０】プリンタサーバ４０は、パーソナルコンピュータまたはこれに準ずるものからなるもので、各プリンタ１０ａ，１０ｂ，１０ｃ…を郡管理するためのものである。すなわち、プリンタサーバ４０では、ネットワーク３０上のホストコンピュータ１ａ，１ｂ，１ｃ，１ｄ…からプリンタ１０ａ，１０ｂ，１０ｃ…に対するジョブの発行があると、そのジョブを一旦受け取った後

に、詳細を後述するように、これをネットワーク３０上のいずれかのプリンタ１０ａ，１０ｂ，１０ｃ…に実行させるようになっいる。

【００４１】このような機能を有するプリンタサーバ４０は、図７（ａ）に示すように、ネットワーク３０上の他の装置との通信を行うための外部Ｉ／Ｆ制御部４１と、一旦受け取ったジョブを記憶蓄積するジョブ記憶部４２と、このプリンタサーバ４０全体を制御するための主制御部４３と、を備えている。さらに、主制御部４３は、図７（ｂ）に示すように、主たる制御部となるＣＰＵ４４，ＲＯＭ４５およびＲＡＭ４６の他に、処理制御手段４７と、印字度数管理テーブル２４と、印字度数管理手段２６と、を備えている。

【００４２】処理制御手段４７は、ＣＰＵでの所定プログラムの実行によって実現されるもので、ホストコンピュータ１ａ，１ｂ，１ｃ，１ｄ…からのジョブがあると、そのジョブをどのプリンタ１０ａ，１０ｂ，１０ｃ…に実行させるかを判断するものである。なお、この判断は、以下のようにして行う。受け取ったジョブにおいてそのジョブを実行すべきプリンタ１０ａ，１０ｂ，１０ｃ…が指定されていない場合には、ジョブが目的とする機能や各プリンタ１０ａ，１０ｂ，１０ｃ…の稼働状況や印字度数管理テーブル２４の記憶内容に基づいて、そのジョブをどのプリンタ１０ａ，１０ｂ，１０ｃ…に実行させるかを判断する。また、実行すべきプリンタ１０ａ，１０ｂ，１０ｃ…が指定されている場合には、その指定に従って、ジョブを実行させるプリンタ１０ａ，１０ｂ，１０ｃ…を判断する。

【００４３】印字度数管理テーブル２４および印字度数管理手段２６は、第１の実施の形態の場合と同様のものである。ただし、本実施の形態では、処理制御手段４７による判断結果に従って印字度数管理手段２６が印字度数管理テーブル２４内の印字度数を更新するようになっている。

【００４４】次に、以上のように構成されたプリンタサーバ４０における処理動作例について、図８のフローチャートを参照しながら説明する。

【００４５】プリンタサーバ４０では、先ず、処理制御手段４７が、ネットワーク３０上のホストコンピュータ１ａ，１ｂ，１ｃ，１ｄ…からジョブの発行が有るか否かを確認する（Ｓ２０１）。ここで、ジョブが有れば、処理制御手段４７は、そのジョブを受け取って、そのジョブを実行させるプリンタ１０ａ，１０ｂ，１０ｃ…の判断を行う（Ｓ２０２）。このとき、印字度数管理手段２６は、そのジョブの発行元のユーザについての印字度数および印字限度をチェックし（Ｓ２０３）、そのチェックの結果を必要に応じて処理制御手段４７へ通知する。

【００４６】ジョブを実行させるプリンタ１０ａ，１０ｂ，１０ｃ…を判断すると、処理制御手段４７は、そのジョブを、実行先となるいずれかのプリンタ１０ａ，１０ｂ，１０ｃ…へ転送し（Ｓ２０４）、これをそのジョブの転送が終了するまで続ける（Ｓ２０５）。

【００４７】そして、一つのジョブの転送が終了すると、その時点で、印字度数管理手段２６は、印字度数管理テーブル２４内の印字度数を更新する（Ｓ２０６）。具体的には、印字度数管理手段２６は、ジョブの転送が終了した旨の外部Ｉ／Ｆ制御部４１からの通知に従い、そのジョブの転送終了によって加算すべき印字度数を算出し、その算出結果を印字度数管理テーブル２４内の印字度数に加算する。そして、新たなジョブについての印字処理を行うために、再び、ジョブの発行があるか否かを確認するステップ（Ｓ２０１）へ戻る。

【００４８】このような処理動作を行うことで、プリンタサーバ４０では、印字度数管理テーブル２４が、ネットワーク３０上の各プリンタ１０ａ，１０ｂ，１０ｃ…についての印字度数を記憶することとなる。すなわち、ネットワーク３０上に複数のプリンタ１０ａ，１０ｂ，１０ｃ…が存在していても、そのうちのいずれかについて印字度数の更新があると、それぞれの印字度数を一元管理する印字度数管理テーブル２４の内容が更新される。そのため、各プリンタ１０ａ，１０ｂ，１０ｃ…についての印字度数にばらつきが生じてしまうことがなくなる。

【００４９】以上のように、本実施の形態のプリンタサーバ４０では、各プリンタ１０ａ，１０ｂ，１０ｃ…についての印字度数を一元管理するので、各プリンタ１０ａ，１０ｂ，１０ｃ…毎の制限管理の内容にばらつきが生じてしまうことがない。したがって、このプリンタサーバ４０を用いてネットワークシステムを構成すれば、第１の実施の形態の場合と同様に、システム全体として効率の良い画像形成を行うことが容易に実現でき、しかもユーザにとっては従来よりも非常に便利なものとなる。

【００５０】

【発明の効果】以上に説明したように、本発明の出力装置およびホスト装置は、ネットワーク上に複数の出力装置が存在する場合であっても、各出力装置毎の制限管理内容にばらつきが生じてしまうことを防ぐようになっている。したがって、本発明の出力装置あるいはホスト装置を用いれば、例えばユーザがどの出力装置に対してジョブを発行しても同様に処理されることとなり、システム全体として効率の良い画像形成を行うことが容易に実現できる。また、ユーザが各出力装置の状況を把握してジョブの発行を均一に行う必要がないので、従来のようにユーザに多大な負担を強いることがなく、結果としてユーザにとっては従来よりも非常に便利なものとなる。

【図面の簡単な説明】

【図１】　本発明に係わる出力装置の実施の形態の一例の概略構成を示すブロック図であり、（ａ）は出力装置

全体の概略構成を示す図、（ｂ）は出力装置内の主制御部の概略構成を示す図である。

【図２】　図１の出力装置が用いられるネットワークシステムの一例の概略構成を示すブロック図である。

【図３】　印字度数に関する情報の具体例を示す説明図である。

【図４】　図１の出力装置で印字処理を行う場合の処理動作例を示すフローチャートである。

【図５】　印字度数に対してグルーピングによる重み付けを加味した場合の具体例を示す説明図である。

【図６】　本発明に係わるホスト装置が用いられるネットワークシステムの一例の概略構成を示すブロック図である。

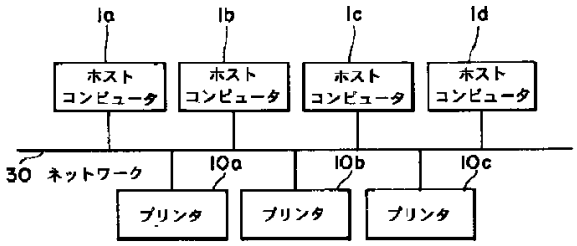
【図７】　本発明に係わるホスト装置の実施の形態の一＊例の概略構成を示すブロック図であり、（ａ）はホスト装置全体の概略構成を示す図、（ｂ）はホスト装置内の主制御部の概略構成を示す図である。

【図８】　図７のホスト装置における処理動作例を示すフローチャートである。

【符号の説明】

１ａ，１ｂ，１ｃ，１ｄ…ホストコンピュータ（外部装置）、１０ａ，１０ｂ，１０ｃ…プリンタ（出力装置）、１３…画像形成部、１４…画像形成制御部、２０…主制御部、２４…印字度数管理テーブル、２５…度数情報交換手段、２６…印字度数管理手段、３０…ネットワーク（通信回線）、４０…プリンタサーバ（ホスト装置）、４２…主制御部、４６…処理制御手段

【図２】



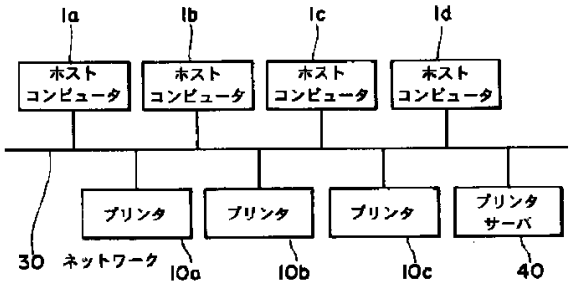
【図３】

ユーザ	印字度数	印字限度
A	20	1000
B	30	1000
C	70	1000
D	50	1000
…	…	…

【図５】

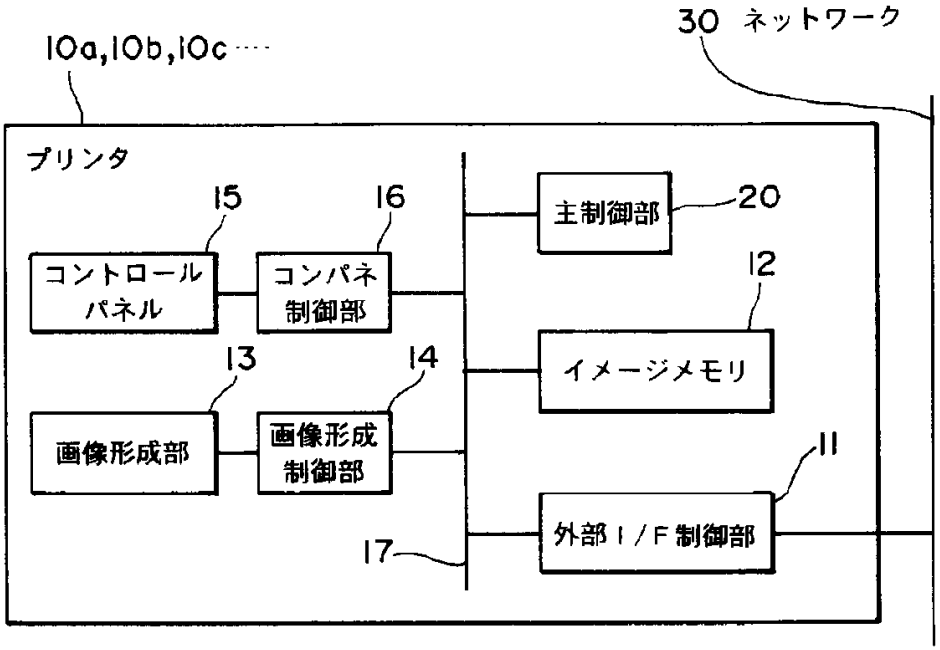
ユーザグループ	印字度数の割増し度		
	プリンタａ	プリンタｂ	プリンタｃ
UGR1	1	1	2
UGR2	2	1	1
…	…	…	…

【図６】

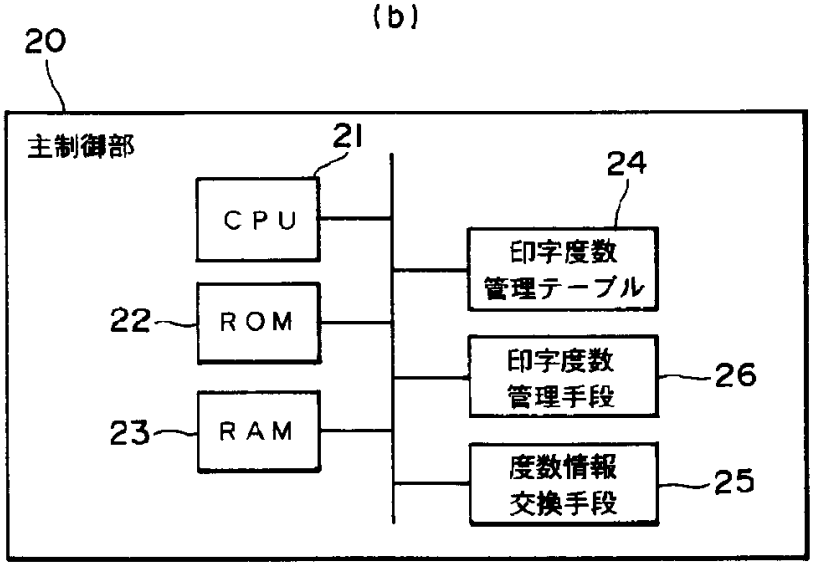


【図１】

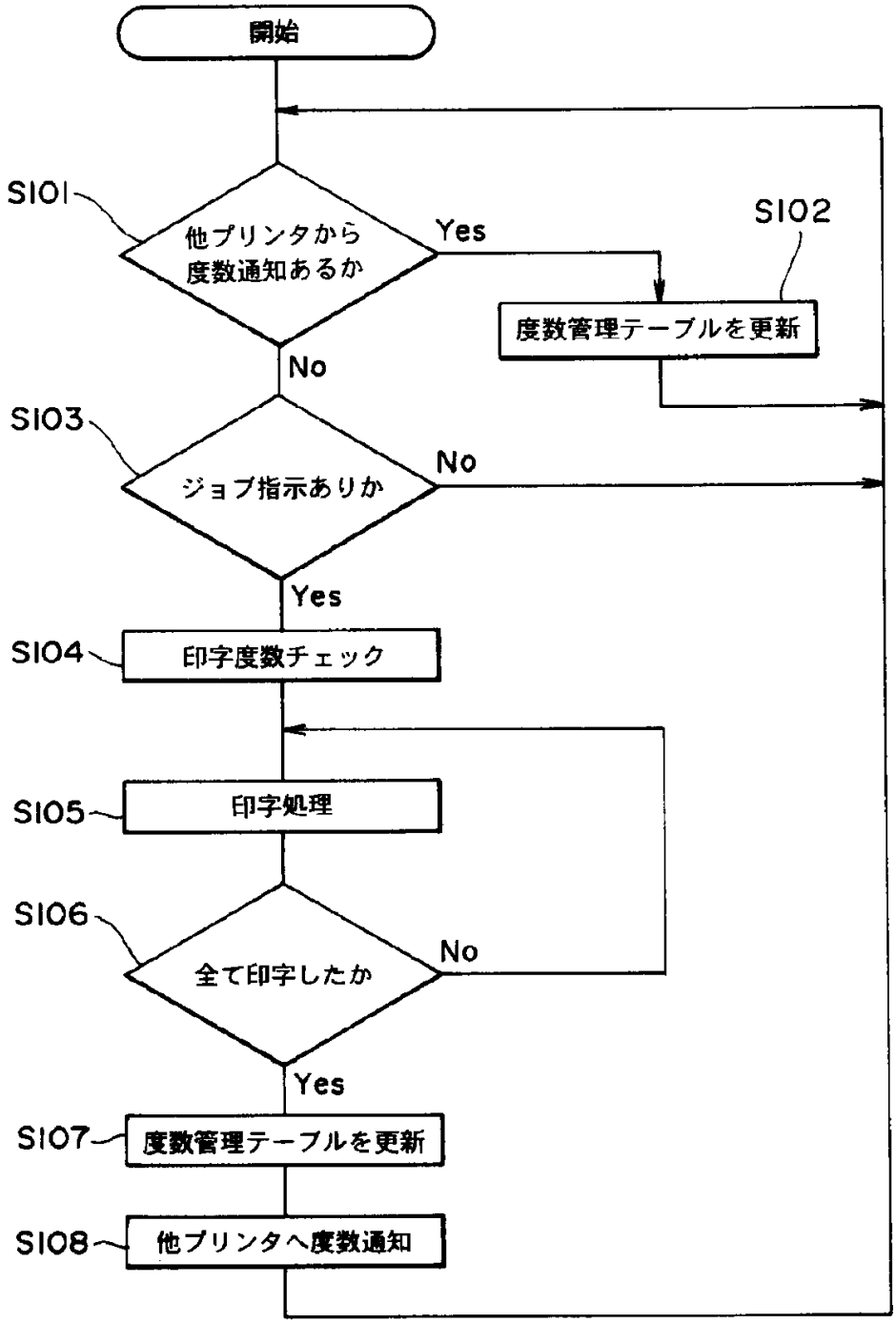
(a)


10a,10b,10c・・・・
30 ネットワーク
プリンタ
15
16
20
コントロールパネル
コンパネ制御部
主制御部
12
イメージメモリ
13
14
画像形成部
画像形成制御部
11
外部Ｉ／Ｆ制御部
17

(b)

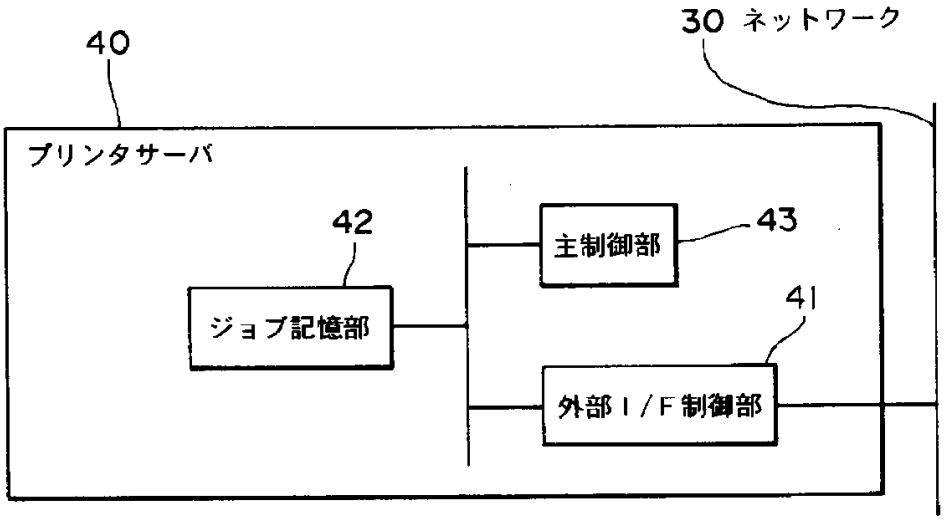

20
主制御部
21
CPU
24
印字度数管理テーブル
22
ROM
印字度数管理手段
26
23
RAM
度数情報交換手段
25

【図４】

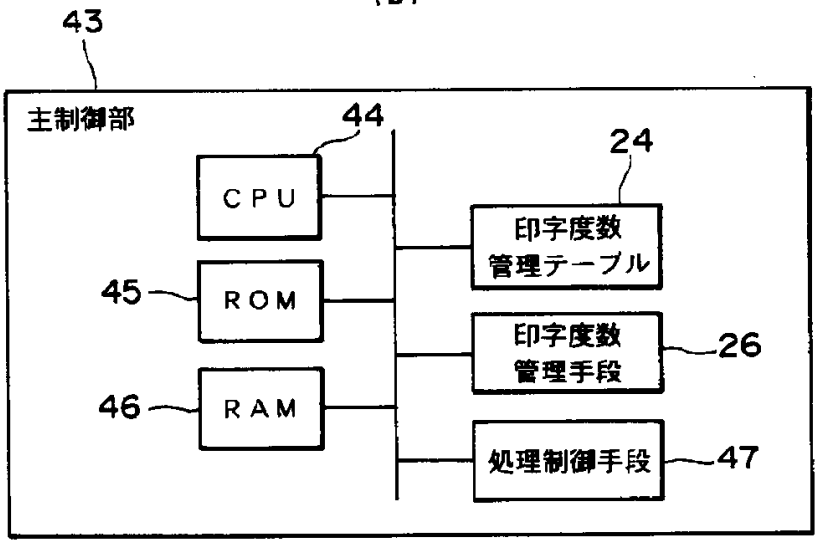

開始
S101
他プリンタから
度数通知あるか
Yes
S102
度数管理テーブルを更新
No
S103
ジョブ指示ありか
No
Yes
S104
印字度数チェック
S105
印字処理
S106
全て印字したか
No
Yes
S107
度数管理テーブルを更新
S108
他プリンタへ度数通知

【図７】

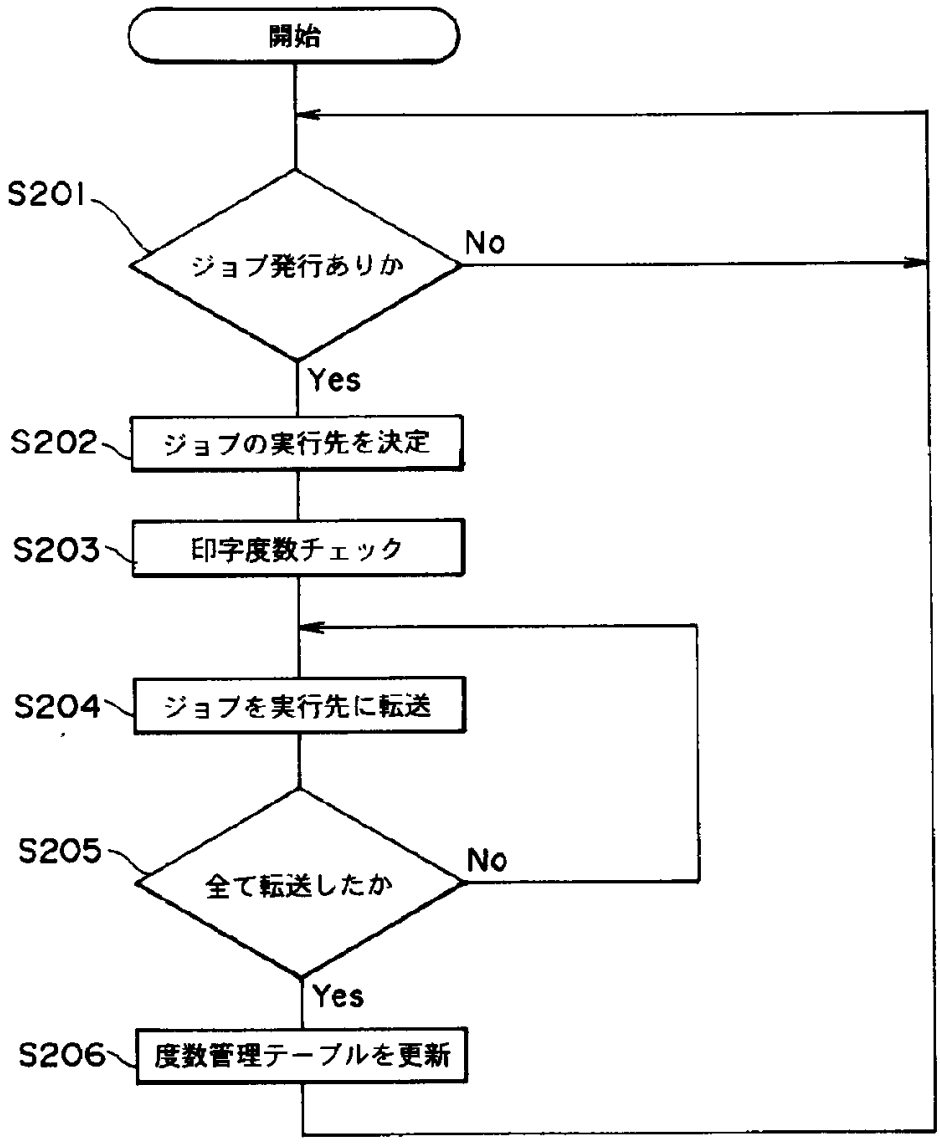
(a)


40
30 ネットワーク
プリンタサーバ
42
ジョブ記憶部
主制御部
43
41
外部Ｉ／Ｆ制御部

(b)


43
主制御部
44
CPU
45
ROM
46
RAM
24
印字度数
管理テーブル
印字度数
管理手段
26
処理制御手段
47

【図８】


開始
S201
ジョブ発行ありか
No
Yes
S202
ジョブの実行先を決定
S203
印字度数チェック
S204
ジョブを実行先に転送
S205
全て転送したか
No
Yes
S206
度数管理テーブルを更新

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

Mail Date: 08/04/2010

Applicant	: Seung-jun LEE	: DECISION ON REQUEST FOR
Patent Number	: 7657216	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/854,645	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **161** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN TX 77522-2149

MAILED
JUL 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Friedersdorf et al.	:	
Application No. 11/854,936	:	DECISION ON PETITION
Filed: September 13, 2007	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 2007EM069A	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 9, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

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

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

This pending nonprovisional application was filed on September 13, 2007, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/876,193, which was filed on December 20, 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, Examiner Teskin has indicated that the proposed amendment to claim priority raises new issues that would require further consideration and/or search. Since a final Office action was

mailed on May 12, 2011, the Office requires the submission of a Request for Continued Examination (RCE) as a pre-condition for acceptance of the late claim for priority.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and a RCE accompanied by the $810.00. large entity fee 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
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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MAILED

AUG 18 2011

OFFICE OF PETITIONS

In re Application of :
Friedersdorf et al. :
Application No. 11/854,936 : DECISION ON PETITION
Filed: September 13, 2007 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 2007EM069A :

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed August 5, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **GRANTED.**

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

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

This pending nonprovisional application was filed on September 13, 2007, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/876,193, which was filed on December 20, 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.

Petitioners have submitted a Request for Continued Examination (RCE) and $810.00 fee, a renewed petition, and an Information Disclosure Statement (IDS).

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.

Petitioners have paid two surcharges. Only one is required. Deposit account no. 05-1712 will be refunded the $1,410.00 surcharge submitted with the present renewed petition on August 5, 2011.

Any inquiries concerning this decision 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.

The application is being forwarded to Technology Center AU 1762 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.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/854,936	09/13/2007	1762	2420	2007EM069A	25	2

CONFIRMATION NO. 5839

CORRECTED FILING RECEIPT

23455
EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

Date Mailed: 08/15/2011

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)

Chris B. Friedersdorf, Kingwood, TX;
Patrick Brant, Seabrook, TX;
Gabor Kiss, Hampton, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 23455

Domestic Priority data as claimed by applicant

This application is a CIP of 11/714,546 03/06/2007
which claims benefit of 60/876,193 12/20/2006
This application 11/854,936
claims benefit of 60/905,247 03/06/2007
and claims benefit of 60/876,193 12/20/2006

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: 09/21/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/854,936**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

PHASE SEPARATOR AND MONOMER RECYCLE FOR SUPERCRITICAL POLYMERIZATION PROCESS

Preliminary Class

528

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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LAW OFFICES OF MIKIO ISHIMARU
333 W. EL CAMINO REAL
SUITE 330
SUNNYVALE CA 94087

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of	:	
Yin-Min Felicia Goh, et al.	:	
Application No. 11/854,972	:	DECISION ON PETITION
Filed: September 13, 2007	:	
Attorney Docket No. CS2006/083	:	

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**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 4, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed January 4, 2011. Accordingly, the date of abandonment of this application is April 5, 2011. The Notice of Abandonment was mailed April 8, 2011.

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

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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Paper No.

FISH & RICHARDSON P.C. (BO)
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

MAILED

NOV 10 2011

OFFICE OF PETITIONS

In re Patent No. 8,002,821	:	
Stinson	:	DECISION ON
Issue Date: August 23, 2011	:	REQUEST FOR
Application No. 11/854,991	:	RECONSIDERATION OF
Filed: September 13, 2007	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 10527-712001	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)," filed October 24, 2011, requesting that the patent term adjustment determination for the above-identified patent be changed from thirty-one (31) days to one hundred and sixty-two (162) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

BACKGROUND

On August 23, 2011, the above-identified application matured into US Patent No. 8,002,821 with a patent term adjustment of 31 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

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

Patentee has indicated that this patent is not subject to a terminal disclaimer.[1]

[1] Petition, page 3.

Patentee maintains entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 131 days.

RELEVANT STATUTE AND REGULATIONS

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

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

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

The implementing regulation, 37 C.F.R. § 1.702(b) provides that:

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
> (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
> (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
> (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
> (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
> (5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

The sole item that is in dispute is the effect of the RCE-cutoff on B-delay: at issue is the period not included in the B-delay for "any time consumed by continued examination of the application requested by the applicant under section 132(b)." See U.S.C. 154(b)(1)(B)(i). **The Office maintains that the entire period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period.** As such, there is no B-delay, due to the fact that the over three-year period begins on September 13, 2010, which is subsequent to the filing of the first RCE on November 13, 2009.

Patentee argues that the 130-day[2] between the mailing of the notice of allowance on April 15, 2011 and the issuance of the patent on August 23, 2011 should be included in the period of B-delay, as this time "was not 'consumed by continued examination of the application."[3] As such, Patentee argues that the over three-year period begins April 15, 2011 with the mailing of the notice of allowance, and ends on August 23, 2011 with the issuance of the patent.

Patentee's argument has been considered, but not found persuasive. Counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35

[2] Patentee has miscalculated this period to constitute 131 days.
[3] Petition, page 3.

U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56365, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination"[4] 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

[4] Id. at 2.

the United States) after the application filing date before an adjustment will accrue for "B delay."

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

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, No. 07-1492, 580 F.Supp.2d 138 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[5]. Clause (i) specifies "any time consumed by

[5] 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

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

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

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

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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.

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[6] 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

[6] 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.

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).

Accordingly, at issuance, the Office properly entered 0 additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent. It follows that Patentee is entitled to a patent term adjustment of 31 days:

	119 days of examination delay
+	0 days attributable to the Office taking in excess of 3 years to issue the patent
–	0 days of overlap
–	88 days of applicant delay.

CONCLUSION

In view thereof, no adjustment to the patent term will be made. It follows that a certificate of correction is not required.

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

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[7] hand-delivery,[8] or facsimile.[9]

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[7] Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

[8] Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

[9] (571) 273-8300: please note this is a central facsimile number.

Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[10]

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3225.[11]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

[10] https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No : 8,012,120 B2
Ser. No. : 11/855,018
Inventor(s) : John B. Slate, et. al.
Issued : September 6, 2011

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

A Certificate of Correction will issue to correct the remaining error noted in your request.

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

Neil K. Nydegger, Esq.
Nydegger & Associates
348 Olive Street
San Diego, CA 92103

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
JAN 19 2012
OFFICE OF PETITIONS

In re Patent of Girton	:	
Patent No. 8,052,744	:	DECISION ON REQUEST FOR
Issue Date: November 8, 2011	:	RECONSIDERATION OF
Application No. 11/855,019	:	PATENT TERM ADJUSTMENT
Filed: September 13, 2007	:	
Attorney Docket No. 10527-0724001	:	

This is a decision on the petition filed on Monday, January 9, 2011, 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 ninety-six (396) 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 one hundred thirty (130) days.

BACKGROUND

On November 8, 2011, the above-identified application matured into U.S. Patent No. 8,052,744, with a revised patent term adjustment of 160 days. On Monday, January 9, 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 396. Patentee asserts the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of

Allowance on July 18, 2011, thereby closing examination of the application on that date. Thus, patentee argues no continued examination took place during the 114 day period from July 18, 2011 (the mailing date of the Notice of Allowance) until November 8, 2011 (the date the patent was issued).

In addition, patentee argues there should be no reduction for time consumed by appellate review by the board of Patent Appeals and Interferences pursuant to 35 U.S.C. 154(b)(1(B)(i). Patentees request removal of the 152 day exclusion for time consumed by appellate review.

As such, patentee maintains that the "B delay" should include the 114 days from July 18, 2011 until November 8, 2011, the 152 day exclusion for appellate review should be removed and the total B delay be increased from 108 to 374 days.

In addition, in good faith and candor, patentee discloses an additional period of reduction that was not considered in the PTA calculations. Patentee discloses the Office failed to enter a 30 day reduction pursuant to 37 CFR 1.704(b) for the reply filed on January 23, 2008, which was filed more than three months after the mailing of the September 24, 2007 Notice to File Corrected Application Papers (Notice).

Patentee concludes that the correct patent term adjustment is 396 days (the sum of 138 days of "A delay" and 374 days of "B delay" minus 116 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

Patentee's arguments with respect to the B delay calculation have been considered, but not found persuasive. The Office calculated the maximum period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 260 days based on the application having been filed under 35 U.S.C. 111(a) on September 13, 2007 and the patent not having issued as of the day after the three year date, September 13, 2010, and a request for continued examination under 132(b) having been filed on June 1, 2011. In other words, the 114 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 maximum "B delay" calculation.

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 continued examination given to the application under 35 U.S.C.

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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.

132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

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

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

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

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under

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

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

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any

[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 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 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

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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.

period beginning on July 18, 2011 and ending on November 8, 2011 is not included in calculating Office delay.

Patentee's determination of the B delay period fails to properly calculate the time excluded from B delay due to appellate review. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is 152 days, beginning on February 18, 2010, the date of filing of the notice of appeal and ending on July 19, 2010, the subsequent date of the mailing of a non-final Office action.

Thus, B delay is 108 (260 - 152) 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.

Patentee is correct that the Office failed enter a reduction in connection with the delayed response to the September 24, 2007 Notice. Specifically, applicant filed a reply on January 23, 2008 to the September 24, 2007 Notice to File Corrected Application Papers. Pursuant to § 1.704(b), any patent term adjustment in this application is subject to a reduction of 30 days for applicant delay for the period beginning on December 25, 2007, the day after the date that is three months after the mailing date of the September 24, 2007, and ending on January 23, 2008, the date the reply was filed. A 30 day reduction is being 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 one hundred thirty (130) days, which is 138 days of A delay + 108 (260 - 152) days of B delay minus 116 (30 + 26 + 36 + 24) days of Applicant delay.

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

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

The Office acknowledges 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 **one hundred thirty (130)** days.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,052,744 B2

DATED : **November 8, 2011** **DRAFT**

INVENTOR(S) : Girton

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 160 days

Delete the phrase "by 160 days" and insert – by 130 days--

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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APR 21 2011

OFFICE OF PETITIONS

ZILKA-KOTAB, PC
PO BOX 721120
SAN JOSE, CA 95172-1120

In re Application of
Brent J. Lymer, et al.
Application No. 11/855,109
Filed: September 13, 2007
Attorney Docket No. NAI1P239B/02.207.03

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 **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 March 28, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CUSTOMER NO. 70416
PERKINS COIE LLP
PATENT - LA
P.O. BOX 1208
SEATTLE WA 98111-1208

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FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
POMERLEAU, Daniel G. et al. :
Application No. 11/855,136 : DECISION ON PETITION
Filed: September 13, 2007 : TO WITHDRAW
Attorney Docket No. **02544.8003.US00** : 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 22, 2010.

The request is **NOT APPROVED**.

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

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: **HICKS & ASSOCIATES**
RAVEN'S COURT
709 MAIN STREET, SUITE 300
CANMORE, CANADA T1W2B-2

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/07/11

TO SPE OF : ART UNIT: 3635 Attn: LILLIS EILEEN D (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/855197 Patent No.: 7823362

CofC Mailroom date: 12/17/10

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: _____

/Eileen Lillis/ — SPE

3635 — Art Unit

OK TO ENTER: /J.F./

01/10/2011

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

PATENT NO. : 7,823,362

APPLICATION NO.: 11/855,197

ISSUE DATE : November 2, 2010

INVENTOR(S) : Cedric Meyer

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:

Col. 9, Claim 3, line 40, delete "one of the".

Col. 9, Claim 5, line 46, delete "one of the".

Col. 9, Claim 6, line 49, delete "one of the".

Col. 10, Claim 10, line 22, delete "one of the".

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

Perman & Green, LLP
99 Hawley Lane
Stratford, CT 06614

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

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

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.

OK TO ENTER: /J.F./

01/10/2011

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,823,362

APPLICATION NO.: 11/855,197

ISSUE DATE : November 2, 2010

INVENTOR(S) : Cedric Meyer

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:

First Page, Col. 1, Below "(65) Prior Publication Data", insert - - (30) Foreign Application Priority Data Sep. 15, 2006 (FR) 2006-53751 - -.

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

Perman & Green, LLP
99 Hawley Lane
Stratford, CT 06614

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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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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AUG 05 2010

OFFICE OF PETITIONS

ROBERT J. EICHELBURG, ESQ.
HODAFEL BUILDING, SUITE 200
196 ACTON ROAD
ANNAPOLIS, MD 21403

In re Application of :
Nitta et al. :
Application No. 11/855,211 : ON PETITION
Filed: September 14, 2007 :
Attorney Docket No. YOR920070226US1 :
(1400-08)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 19, 2010, 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 October 27, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 28, 2009. A Notice of Abandonment was mailed July 8, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election of the species to be examined, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

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

This matter is being referred to Technology Center 2815 for further examination on the merits.

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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WIGGIN AND DANA LLP
ATTENTION: PATENT DOCKETING
ONE CENTURY TOWER, P.O. BOX 1832
NEW HAVEN CT 06508-1832

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application of :
Kenneth Burke et al. :
Application No. 11/855,230 : DECISION GRANTING PETITION
Filed: September 14, 2007 :
Attorney Docket No. **103341-100** :

This is a decision on the petition, filed September 22, 2010 under 37 CFR 1.137(b) and 37 CFR 1.137(f), to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on September 9, 2008. However, 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.

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 under 37 CFR 1.137(f) must be accompanied by:

(1) the 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 present petition has been found to be in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office 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)(I) has been rescinded. The projected publication date is January 27, 2011 and a copy of the communication regarding rescission is included herein.

The petition fee in the amount of $810.00 has been applied to the finance records for this application.

This matter is being referred to Technology Center 3731 for further examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Communication Regarding Rescission of Nonpublication Request And/or Notice of Foreign Filing

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
11/855,230	09/14/2007	Kenneth Burke	103341-100

CONFIRMATION NO. 6455

27267
WIGGIN AND DANA LLP
ATTENTION: PATENT DOCKETING
ONE CENTURY TOWER, P.O. BOX 1832
NEW HAVEN, CT 06508-1832

NONPUBLICATION RESCISSION LETTER

Date Mailed: 10/20/2010

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 01/27/2011.

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".

/pffaison ball/

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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WIGGIN AND DANA LLP
ATTENTION: PATENT DOCKETING
ONE CENTURY TOWER, P.O. BOX 1832
NEW HAVEN, CT 06508-1832

MAILED

NOV 03 2011

OFFICE OF PETITIONS

APPLICANT: BURKE, et al.
Appl. No.: 11/855,230
Filing Date: September 14, 2007
Title: WOUND CLOSING DEVICE
Attorney Docket No.: 103341-100
Pub. No.: US 2011/0022082 A1
Pub. Date: January 27, 2011

This is a decision on the request for correction of patent application publication under 37 CFR 1.221(b), received on March 22, 2011, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material error wherein the preliminary amendment filed October 25, 2010 was not included in the specification.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error noted by requestor with respect to the preliminary amendment is not an Office error. The patent application publication does not include a mistake regarding the failure to include the preliminary amendment to the specification because patent application publications are not required to include preliminary amendments. See 37 CFR 1.215(a). The "failure to include an amendment is not an Office error." See MPEP 1130(b). The publication accurately reflected the specification as filed.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

37 C.F.R. 1.215(a) states that the patent application publication may also be based upon amendments to the specification (other than the abstract or the claims) that are reflected in a substitute specification under § 1.125(b), amendments to the abstract under § 1.12(b), amendments to the claims that are reflected in a complete claim listing under § 1.121(c), and amendments to the drawings under § 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun. 37 CFR 1.215(c) states that applicant may file an amended copy of the application for publication purposes, but such amendments must be submitted in compliance with the Office electronic filing system requirements, and within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under 35, United States Code, whichever is later.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/patents/process/file/efs/guidance/index.jsp

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication".

Inquiries relating to this matter may be directed to Sherry D. Brinkley at (571) 272-3204.

/Christopher Bottorff/

Christopher Bottorff
Petitions Examiner
Office of Petitions

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

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APR 18 2011

OFFICE OF PETITIONS

In re Application of :
Martin B. Rawls-Meehan :
Application No. 11/855,272 : ON PETITION
Filed: September 14, 2007 :
Attorney Docket No. METHODS AND SYSTEMS OF AN ADJUSTABLE BED

This is a decision on the petition, filed April 15, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 30, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2121 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

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Mossman, Kumar and Tyler, PC
P.O. Box 421239
Houston TX 77242

MAILED

SEP 17 2010

OFFICE OF PETITIONS

In re Application of	:	
Stanislav W. Forgang et al.	:	DECISION REFUSING STATUS
Application No. 11/855,329	:	UNDER 37 CFR 1.47(b)
Filed: September 14, 2007	:	
Attorney Docket No. RES4-40484-US	:	

This is in response to the renewed Petition Under 37 CFR 1.47(b), filed August 20, 2010 and supplemented on September 15, 2010.

The petition is **Dismissed as being MOOT.**

A first petition under 37 CFR 1.47(b) was filed December 26, 2007 and was dismissed in a decision mailed June 30, 2010.

The renewed petition includes a signed declaration from the previously non-signing co-inventor. A petition under 37 CFR 1.47(b) is filed by the assignee when the inventors refuse to execute an application for patent. Since the renewed petition includes signed declarations there is now no need for such a petition and the petition is moot. This application need not be returned to the Office of Petitions for any further consideration under 37 CFR 1.47(b).

The application is being forwarded to Technology Center Art Unit 2858.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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

PTO/SB/425 (03-11)

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

Nonprovisional Application Number or Control Number (if applicable):	Patent Number (if applicable):
11/855,335	
First Named Inventor:	Title of Invention:
M. TAKIGAMI et al.	Preparation of Gels Derived from Carboxymethyl Cellulose Alkali Metal Salt

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 April 1, 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 1 forms are submitted.

Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan

The United States Patent and Trademark Office (USPTO) considers the effects of the earthquake and resulting tsunami in Japan on March 11, 2011, to be an "extraordinary situation" within the meaning of 37 CFR 1.183 and 37 CFR 2.146 for affected patent and trademark applicants, patentees, reexamination parties, and trademark owners. Since this catastrophic event occurred outside the United States and did not result in a postal service interruption in the United States Postal Service, the USPTO has no authority to designate a postal service emergency as authorized by 35 U.S.C. 21(a).

For patent applications and reexamination proceedings pending in the USPTO as of March 11, 2011, having one or more inventors, an assignee, or a correspondence address in areas of Japan affected by the earthquake and tsunami, in which 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, and for which the statutory or non-statutory time period set for response has not yet expired, the USPTO will, on applicant's request, or a reexamination party's request, withdraw the Office communication and reissue it. The request must be made prior to expiration of the statutory or non-statutory time period set for response and within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956). The request must be made by using form PTO/SB/425 (when available) or by making a request accompanied by a copy of this notice. The inclusion of a copy of this notice will be treated as a representation that the need for the reissuance of the Office communication was due to the effects of the earthquake and resulting tsunami of March 11, 2011. The request should be sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. Form PTO/SB/425 will be available in EFS-Web and on the USPTO Web site at http://www.uspto.gov/forms/index.jsp. The use of form PTO/SB/425 is encouraged to facilitate processing of the request.

For patentees who were unable to timely pay a patent maintenance fee due to the effects of the earthquake and resulting tsunami on March 11, 2011, the USPTO will 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 and the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment when the patentee files the maintenance fee payment with a petition to accept a delayed maintenance fee under 37 CFR 1.378(c). *See* 37 CFR 1.183.

Patentees who seek to pay a maintenance fee during the six-month grace period following the window to pay the maintenance fee with a request to waive the surcharge in 37 CFR 1.20(h), must mail the payment and request to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or via facsimile to: 571-273-6500.

The request must be made by using form PTO/SB/425 (when available) or by making a request accompanied by a copy of this notice. The inclusion of a copy of this notice with the payment of the maintenance fee during the grace period will be treated as a representation that the late payment of the fee was due to the effects of the earthquake and tsunami of March 11, 2011, and as a request for *sua sponte* waiver of the surcharge under 37 CFR 1.20(h). This waiver may only be appropriately requested where 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, and the delay in paying the fee was due to the effects of the earthquake and tsunami of March 11, 2011.

The USPTO advises patentees who need to file a petition to accept a delayed maintenance fee payment due to the effects of the earthquake and tsunami of March 11, 2011, where the maintenance fee payment was required to have been paid after March 10, 2011, to promptly file 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))** accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)) and either a copy of this notice or form PTO/SB/425. The inclusion of a copy of this notice will be treated as a representation that the delay in payment of the maintenance fee was due to the effects of the earthquake and resulting tsunami of March 11, 2011, and as a request for *sua sponte* waiver of the surcharge under 37 CFR 1.20(i). The petition must filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).

Patentees are reminded that a 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). A petition to accept a delayed maintenance fee payment filed later than twenty-four months after the expiration date of the patent must be filed under 37 CFR 1.378(b) and include a showing that the delay in payment was unavoidable. A petition to accept a delayed maintenance fee payment due to the effects of the earthquake and tsunami may be submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

For applicants who file a nonprovisional application on or after March 11, 2011, and prior to April 12, 2011, without an executed oath or declaration or payment of the basic filing fee, search fee, and/or examination fee due to the earthquake and tsunami of March 11, 2011, the USPTO will 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. Patent applicants seeking waiver of the surcharge must include either form PTO/SB/425 or a copy of this notice, along with the executed oath or declaration or the basic filing fee,

search fee, or examination fee. The inclusion of a copy of this notice will be treated as a representation that 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 tsunami of March 11, 2011, and as a request for *sua sponte* waiver of the surcharge under 37 CFR 1.16(f). The reply to the Notice to File Missing Parts requiring the oath or declaration or the filing fees may be submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Patent-related inquiries concerning this notice may be directed to the Office of Patent Legal Administration at (571) 272-7704 ((571) 272-7703 for reexamination), or by e-mail at PatentPractice@uspto.gov.

For trademark applications and registrations with a correspondence or owner address in areas of Japan affected by the earthquake and tsunami as of March 11, 2011, in which a an Office action (final, non-final, or other), a notice of allowance, or other Office notice requiring a response (hereinafter collectively referred to as "Office communication") is outstanding, the USPTO will, upon request, withdraw the Office communication and reissue it. The request must be made prior to the deadline for responding to the Office communication, and indicate that the need for the reissuance of the Office communication is due to the effects of the earthquake and resulting tsunami of March 11, 2011. The request should be sent via e-mail to TMFeedback@uspto.gov or by mail to Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451. If necessary, changes of correspondence address should be provided.

For trademark applications and registrations with a correspondence or owner address in areas of Japan affected by the earthquake and tsunami as of March 11, 2011, that were abandoned or cancelled due to inability to timely respond to a trademark-related Office communication due to the effects of the earthquake and resulting tsunami on March 11, 2011, the USPTO will waive the petition fee (set by regulation, rather than statute) to revive the abandoned application or cancelled registration. Either a petition by regular mail to the address set forth in the preceding paragraph, or the Trademark Electronic Application System (TEAS) "Request for Reinstatement" form should be used, and must include a verified statement that the failure to respond to the Office communication was due to the effects of the earthquake and resulting tsunami.

Trademark-related inquiries concerning this notice may be directed to the Trademark Office of Petitions by telephone at (571) 272-8950, by facsimile at (571) 273-8950, or by e-mail at TMFeedback@uspto.gov.

The USPTO cannot grant waivers or extensions of dates or requirements set by statute. For example, the following patent-related time periods cannot be extended by the Director: (1) the period set forth in 35 U.S.C. 119(a)-(d) to file a nonprovisional patent application claiming the benefit of a prior-filed foreign application; (2) the twelve-month time period set forth in 35 U.S.C. 119(e) during which a nonprovisional application claiming the benefit of a prior filed provisional application must be filed in order to

obtain benefit of the provisional application's filing date; (3) the copendency requirement of 35 U.S.C. 120 between a parent application which issues as a patent and a later filed child application, which requires that the child application be filed prior to issuance of the parent application; (4) the three-month time period to pay the issue fee set forth in 35 U.S.C. 151; (5) the 35 U.S.C. 304 two-month time period from the date of patentee service, for a requester to file, in an *ex parte* reexamination, a reply to a statement filed by the patentee; and (6) the 35 U.S.C. 314(b)(2) thirty-day time period from the date of service, for a requester to file, in an *inter partes* reexamination, written comments addressing issues raised by an Office action or the patentee's response to the action. The following statutory trademark-related time periods cannot be extended and statutory fees cannot be waived by the Director: (1) the 36-month period set forth in 15 U.S.C. 1051(d) within which a statement of use must be filed and the associated fee(s); (2) the periods set forth in 15 U.S.C. 1058, 1141(k) for filing affidavits of continued use or excusable nonuse and the associated fee(s); (3) the period set forth in 15 U.S.C. 1059 for filing a renewal and the associated fee(s); and (4) the periods set forth in 15 U.S.C. 1063 and 1064 for filing an opposition or cancellation proceeding at the Trademark Trial and Appeal Board.

Date: 3/17/11

David J. Kappos
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

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Commissioner for Patents
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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 :
Takigami et al. :
Application No. 11/855,335 : DECISION ON PETITION
Filed: September 14, 2007 :
Attorney Docket No. NIP-5990 :

This is a decision on the request filed April 1, 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 **DISMISSED**.

As set forth in the announcement, the Office action or notice will be re-mailed and the period for response will be restarted if:

(1) The patent application or reexamination proceeding is pending in the USPTO as of March 11, 2011, and a reply to an Office action (final, non-final, or other), a notice of allowance, or other Office notice is outstanding;

(2) One or more inventors, an assignee or a correspondence address is in the area of Japan affected by the earthquake and resultant tsunami of March 11, 2011;

(3) The period for response has not yet expired; and

(4) Applicant requests relief. The request must be made by using the form PTO/SB/425 or be accompanied by a copy of the announcement.

The request must be made prior to expiration of the statutory or non-statutory time period set for response and within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956). The use of the form PTO/SB/425 or the inclusion of a copy of the announcement will be treated as a representation that the need for the reissuance of the

Office communication was due to the effects of the earthquake and resulting tsunami of March 11, 2011.

The instant petition is dismissed since it lacks item (1).

With respect to item (1), no additional reply from applicant is due. Further, there is no outstanding Office notice or action pending against this application. Petitioner has currently submitted an Amendment and Request for Continued Examination on April 13, 2011. Therefore, there is no relief that can be given to applicant. Accordingly, the petition is dismissed.

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

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

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

By FAX: (571) 273-8300

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/855,410	09/14/2007	Noriyuki Kobayashi	10021754US01	6801

34904 7590 12/06/2010

CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE, CA 92618-3731

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):

mklein@cusa.canon.com
skalminov@cusa.canon.com
IPDocketing@cusa.canon.com

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CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE CA 92618-3731

In re Application of	:	
KOBAYASHI, NORIYUKI	:	DECISION ON REQUEST TO
Application No. 11/855,410	:	PARTICIPATE IN PATENT
Filed: September 14, 2007	:	PROSECUTION HIGHWAY
Attorney Docket No. **10021754US01**	:	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 21, 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

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	11855433
Filing Date	14-Sep-2007
First Named Inventor	Yoshitaka Hara
Art Unit	2618
Examiner Name	DOMINIC REGO
Attorney Docket Number	314671US2
Title	METHOD AND DEVICE FOR TRANSFERRING SIGNALS REPRESENTATIVE OF A PILOT SYMBOL PATTERN

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	/Michael L. Gellner/
Name	Michael L. Gellner
Registration Number	27256

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 : November 10,2011

In re Application of :

Yoshitaka Hara

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11855433

Filed : 14-Sep-2007

Attorney Docket No : 314671US2

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed November 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 2618 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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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

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OFFICE OF PETITIONS

In re Patent No. 8,057,534 :
Issued: November 15, 2011 :DECISION ON APPLICATION
Application No. 11/855,516 : FOR PATENT TERM ADJUSTMENT
Filed: September 14, 2007 :
Attorney Docket No. 10527-0720001 :
/05-01514 US02 :

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on January 13, 2012, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted from 456 to 402 days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of FOUR HUNDRED FORTY-FOUR (444) days.

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

On November 15, 2011, the above-identified application matured into U.S. Patent No. 8,057,534 with a patent term adjustment of 456 days. On January 13, 2012, Patentees submitted the instant application. Patentees disclose that the patent term adjustment of 456 days indicated on the front of the patent is incorrect because "A reply to an Office Action was due on or before March 21, 2011 (the date that is three months after December 21, 2010, the date on which the Office Action was mailed). Patentees filed a response to the Office Action on June 1, 2011. Patentees were accorded 60 days delay for a late response. In good faith and candor, Patentees submit that the late response should have been accorded a total Applicant Delay of 72 days for delay from March 22, 2011, to June 1, 2011. See 37 C.F.R. § 1.704(b)."

In view of the periods of Applicant Delay detailed above, the total Applicant Delay for this patent should be calculated as 143 days (i.e., the sum of 35, 36 and 72 days).

Patentee also maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on July 13, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 126 day period from July 13, 2011 (the mailing date of the Notice of Allowance) until November 15, 2011 (the date the patent was issued). As such, and although the calculations don't seem to be accurate, Patentee maintains that the "B delay" should include the 126 days and should be 385 days, not 427 days. Patentee concludes that the correct patent term adjustment is 402 days (the sum of 160 days of "A delay" and 385 days of "B delay" minus 143 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS

37 CFR 1.704 (c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

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

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

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

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

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

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

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

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

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

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

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

OPINION

Applicant's arguments have been considered. The response filed June 1, 2011 was supplemental to the filing of the response filed May 20, 2011. In this instance, the filing of the response on June 1, 2011 is considered a failure to engage under 1.704(c)(8).

Pursuant to 37 CFR 1.704(c)(8) a period of reduction of 72 days counting the number of days in the period beginning March 21, 2011 and ending on the date of filing of the last supplemental paper, June 1, 2011. Accordingly, a period of reduction of 60 days is being removed and 72 days is being entered.

As it relates to the calculation of "B delay, Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 427 days based on the application having been filed under 35 U.S.C. 111(a) on September 14, 2007 and the patent not having issued as of the day after the three year date, September 14, 2010, and a request for continued examination under 132(b) having been filed on June 1, 2011. In other words, the 126-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by

continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

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

[1] Pursuant to 35 U.S.C. 132(b) , 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

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

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

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

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

actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

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

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

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

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

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

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

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

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

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

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

[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.

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 15, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on June 1, 2011 and ending on November 15, 2011 is not included in calculating Office delay.

CONCLUSION

In view of the above, the patent should have issued with a patent term adjustment of four hundred forty-four (444) days.

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred forty-four (444)** days.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,057,534 B2

DATED : November 15, 2011

INVENTOR(S) : Dennis A. Boismier

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 (456) days

Delete the phrase "by 456 days" and insert – by 444 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINNEAPOLIS MN 55440-1022

MAILED
AUG 19 2011
OFFICE OF PETITIONS

In re Patent of Flanagan et al.	:	
Patent No. 7,955,382	:	DECISION ON REQUEST FOR
Issue Date: June 7, 2011	:	RECONSIDERATION OF
Application No. 11/855,541	:	PATENT TERM ADJUSTMENT
Filed: September 14, 2007	:	
Attorney Docket No. 10527-725001 / 05-01553 US02	:	
Title: ENDOPROSTHESIS WITH ADJUSTABLE SURFACE FEATURES	:	

This is a decision on the petition filed on August 8, 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 **DISMISSED**.

BACKGROUND

On June 7, 2011, the above-identified application matured into U.S. Patent No. 7,955,382, with a revised patent term adjustment of 69 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 196. 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 February 1, 2011, thereby closing examination of the application on that date. Thus, Patentees argue no continued examination took place during the 127 day period from February 1, 2011 (the mailing date of the Notice of Allowance) until June 7, 2011 (the date the patent was issued). As such, Patentees maintain that the "B delay" should include the 127 days and be increased from 0 to 127 days. Patentees conclude that the correct patent term adjustment is 196 days (the sum of 150 days of "A delay" and 127 days of "B delay" minus 81 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 0 days based on the application having been filed under 35 U.S.C. 111(a) on September 14, 2007 and the patent not having issued as of the day after the three year date, September 15, 2010, and a request for continued examination under 132(b) having been filed on May 24, 2010. In other words, the 127 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

---

[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.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is

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[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.

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

[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 time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

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

In this instance, a request for continued examination was filed on May 24, 2010, and the patent issued by virtue of that request on June 7, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on February 1, 2011 and ending on June 7, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 69 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

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OFFICE OF PETITIONS

In re Application of :
Sean Wu, et al. :
Application No. 11/855,581 : DECISION ON PETITION
Filed: September 14, 2007 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 5222-17500/P1902 :

This is a decision on the petition, filed March 17, 2011, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on September 10, 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 December 15, 2011 accompanies this decision on petition.

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

This application is being referred to Technology Center Art Unit 2629 for examination in due course.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/855,581	09/14/2007	Sean Wu	5222-17500/P1902

CONFIRMATION NO. 7132

61507
Entropy Matters LLC
P.O. Box 2250
NEW YORK, NY 10021

NONPUBLICATION RESCISSION LETTER

Date Mailed: 09/06/2011

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 12/15/2011.

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

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OFFICE OF PETITIONS

In re Application of
Jerald C. Seelig, et al.
Application No. 11/855,626
Filed: September 14, 2007
Attorney Docket No.: 619.9114

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed July 12, 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 no longer qualifies for small entity status. Accordingly, all future fees 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

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MOTOROLA INC
600 NORTH US HIGHWAY 45
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LIBERTYVILLE IL 60048-5343

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of :
Buckley et al. :
Application No. 11/855,637 : DECISION ON PETITION
Filed: September 14, 2007 :
Attorney Docket No. CS34242 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 22, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 23, 2010. A Notice of Abandonment was mailed July 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,620.00, and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 2112 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

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AUG 05 2011

PCT LEGAL ADMINISTRATION

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

In re Application of	:	DECISION ON
KOBAYASHI et al	:	
Application No.: 11/855,681	:	
Paten No.: 7,725,866	:	PETITION UNDER
Filing Date: 23 July 2001	:	
Attorney's Docket No.: 1075.1447	:	
For: ELECTRONIC PACKAGE... IS RECORDED	:	37 CFR 1.78(a)(3)

This is in response to the communication "PETITION UNDER 37 CFR 1.78(a)(3)" submitted 14 April 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed patent application set forth in the certificate of correction filed with the petition.

The petition under 37 CFR 1.78(a)(3) is **dismissed** as moot.

The instant petition seeks acceptance of a late benefit claim to the prior international application PCT/JP2005/005025.

As set forth under MPEP 201.11(III)(D), the pertinent part states:

If an applicant includes a benefit claim in the application but not in the manner specified by 37 CFR 1.78(a) (e.g., if the claim is included in an oath or declaration or the application transmittal letter) within the time period set forth in 37 CFR 1.78(a), the Office will not require a petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) to correct the claim if the information concerning the claim was recognized by the Office as shown by its inclusion on the filing receipt. ... Even if the Office has recognized a benefit claim by entering it into the Office's database and including it on applicant's filing receipt, the benefit claim is not a proper benefit claim under 35 U.S.C. 119(e) or 35 U.S.C. 120 and 37 CFR 1.78 unless the reference is included in an ADS or in the first sentence>(s)< of the specification and all other requirements are met.

Because the USPTO has recognized the benefit claim as evidenced by the filing receipt, the petition under 37 CFR 1.78(a)(3) is moot. In view of the dismissal of the instant petition as moot, the $1,410 fee submitted is unnecessary and will be credited to petitioner's deposit account 19-3935 in due course.

Applicants, however, are required to file a proper priority claim and it must be identified either in the oath or declaration (37 CFR 1.63) or in an application data sheet (ADS) (37 CFR 1.76).

CONCLUSION

For the reasons above, the petition under 37 CFR 1.78(a)(3) is **DISMISSED** as moot.

The application is being forwarded to the Certificate of Correction Branch of the Office of Patent Publication for processing in accordance with this decision.

Rafael Bacares
Legal Examiner
PCT Legal Administration
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

Bryan Lin
Legal Examiner
PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

SEP 08 2010

OFFICE OF PETITIONS

In re Application :
Mahany, et al. :
Application No. 11/855,690 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: September 14, 2007 :
Dkt. No.: 14235US03 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed August 25, 2010.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 383 days, not 292 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

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

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

---

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

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.
11/855,742	09/14/2007	Tsukasa FUKASAWA	314602US26	7501

22850 7590 01/18/2011

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

EXAMINER	
SHAFI, MUHAMMAD	
ART UNIT	**PAPER NUMBER**
3663	

NOTIFICATION DATE	DELIVERY MODE
01/18/2011	ELECTRONIC

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

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

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

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 14 2011

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of	:	DECISION ON PETITION
Tsukasa FUKASAWA	:	UNDER 37 CFR 1.181
Application No. 11/855,742	:	
Filed: September 14, 2007	:	
For: ELECTRIC PARKING BRAKE SYSTEM	:	
AND METHOD FOR CONTROLLING THE	:	
ELECTRIC PARKING BRAKE SYSTEM	:	

This is in response to applicants' petition under 37 CFR 1.181 filed November 24, 2010 requesting consideration of the Information Disclosure Statement (IDS) filed May 21, 2010.

The petition is **DISMISSED AS MOOT**.

A review of the record reveals that the examiner did consider the IDS as indicated in the supplemental notice of allowability mailed on December 21, 2010.

Any questions regarding this decision should be directed to Quality Assurance Specialist Lanna Mai at (571) 272-6867.

Kathy Matecki

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

lm: 1/5/11
LM

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

MAILED
AUG 30 2011
OFFICE OF PETITIONS

In re Application of :
ROBERT D. CARTER :
Application No. 11/855,779 : DECISION ON PETITION
Filed: September 14, 2007 :
Attorney Docket No. K0567.70006US01 :

This is a decision on the petition, filed January 28, 2011, to expunge information from an application and to correct the file contents above identified application. The petition will be considered under 37 CFR 1.59(b).

The petition is **GRANTED**.

Petitioner, in substance, requests that the instant application contents be corrected to show that the communication to the Office January 18, 2011, was designated to be scanned into an unrelated application pending in the Office.

A review of the file indicates that sufficient status identifiers were submitted with the communication filed January 18, 2011, to demonstrate a response designated for another application. The copy of the submitted response filed with the petition has been scanning into the correct application file. Accordingly, the petition is granted.

In a paper file, the unintentionally submitted exhibits could, but not necessarily would, have been physically removed from the file wrapper and returned to applicant. In the IFW realm the corresponding action(s) is to close the document and also remove such from the listing of "Publicly available Documents." It is agreed that it would be appropriate in this instance to close the information in application serial no. 11/855,779 that was erroneously filed in the above identified application, and also remove such from the listing of publicly available documents for this Image File Wrapper (IFW).

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

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

HOLLAND & HART, LLP
P.O BOX 8749
DENVER, CO 80201

MAILED

OCT 04 2011

OFFICE OF PETITIONS

In re Application of :
Ned Hutchinson, et. al. :
Application No. 11/855,871 : ON PETITION
Filed: September 14, 2007 :
Attorney Docket No. 55689.830001.US0 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 27, 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 Brian Kinnear 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 became abandoned for failure to file a reply to the non-final Office action mailed on February 18, 2011. A Notice of Abandonment was mailed September 21, 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 $930; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

It is not apparent whether the correspondence address of record has changed. However, since the address given in the petition differs from the address of record, a courtesy copy of this decision is being mailed to the address given in the petition. Thereafter, all future communications from the Office will be mailed solely to the address of record unless otherwise instructed.

This application file is being referred to Technology Center Art Unit 3618 for review of the amendment filed with the present petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Brian Kinnear
555 17th Street, Suite 2700
Denver, CO 80202

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/23/10

TO SPE OF : ART UNIT 1632

SUBJECT : Request for Certificate of Correction for Appl. No.: 11855890 Patent No.: 7691377

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 Director's/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

/Peter Paras/ 1632

SPE **Art Unit**

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/23/10

TO SPE OF : ART UNIT 1632

SUBJECT : Request for Certificate of Correction for Appl. No.: 11855890 Patent No.: 7691377

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

[redacted]

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

_____

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_____ _____
SPE **Art Unit**

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ALBEMARLE NETHERLANDS B.V.
PATENT AND TRADEMARK DEPARTMENT
451 FLORIDA STREET
BATON ROUGE LA 70801

MAILED

NOV 17 2011

OFFICE OF PETITIONS

In re Patent No. 8,057,763
Issued: November 15, 2011
Application No. 11/855,894
Filed: September 14, 2007
Attorney Docket No. C3-7581 US

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

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT, filed November 10, 2010.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

On July 15, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 620 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee.

Applicants dispute the reduction of 2 days for the response filed January 24, 2011. The USPTO mailed a non-final rejection to the applicants on October 22, 2010, setting a shortened statutory period of three months to reply. The three month response date fell on Saturday, January 22, 2011, which was a weekend day. The applicants filed a response to the non- final office action on January 24, 2011, the next business day.

In Arqule v. Kappos, _ F.Supp.2d _ (D.D.C. 2011), the District Court of the District of Columbia ruled that the 35 U.S.C. § 21 (b) "weekend add holiday" exception applies to "any action" including the § 154(b)(2)(C) Accordingly, because January 22, 2011 was a Saturday, the time period to calculate Applicant delay commenced on January 24, 2011 rather than January 22, 2011. Therefore, a delay of 2 days was accrued, corresponding to the time period between January 22, 2011 (three months after the mailing date of the Office Action, in accordance with 37 CFR §1.704(b)) and January 24, 2011. Applicants respectfully request the Office to remove the 2 days of Applicant delay and correct the total Applicant delay from 2 days to 0 days.

[1] PALM records indicate that the issue fee was paid on October 3, 2011.

The reduction is being reconsidered and, based upon the decision in the Arqule case,it is determined that entry of a reduction for this reply timely filed pursuant to 35 U.S.C. §21(b) is not warranted. Accordingly, the period of reduction of 2 days is being removed.

Thus, instead of a 2 day reduction for applicant delay pursuant to 37 C.F.R. §1.704(b), 0 days should have been accorded for applicant delay.

In view thereof, the determination of Patent Term Adjustment at the time of the mailing of the notice of allowance should have been 622 days (622 days of Office delay reduced by 0 days of applicant delay) rather than 620 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).

As such, since the patent has now issued, the patent term adjustment is 1049 (622 "A delay days" + 427 "B delay days), not 1047 days.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand forty-nine (1049)** days.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,057,763 B2

DATED : November 15, 2011

INVENTOR(S) : Bob Gerardus Oogjen

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 (1047) days

Delete the phrase "by 1047 days" and insert – by 1049 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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LAW OFFICE OF
J. NICHOLAS GROSS, PROF. CORP.
PO BOX 9489
BERKELEY CA 94709

MAILED
MAY 31 2011
OFFICE OF PETITIONS

In re Application of :
Gross :
Application No. 11/855,922 : DECISION
Filed/Deposited: 14 September, 2007 :
Attorney Docket No. JNG 2007-1 :

This is a decision on the petition filed on 16 February, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

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

As to the Allegations
of Unintentional Delay

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

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly, to the final Office action mailed on 20 May, 2010, with reply due absent extension of time on or before 20 August, 2010.

On 9 November, 2010, Petitioner filed a request and fee for extension of time 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[1] if it did not *prima facie* place the application in condition for allowance, and on 3 December, 2010, the Examiner mailed an Advisory Action.

The application went abandoned by operation of law after midnight 20 November, 2010.

The Office mailed the Notice of Abandonment on 24 January, 2011.

On 16 February 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, with a statement of unintentional delay and a reply in the form of 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.

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.

---

[1] 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).)

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

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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]))

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 2164 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.

[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.

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
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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
Richard B. Singleton
Application No. 11/855,963
Filed: September 12, 2007
Attorney Docket No. NAI1P348A/01.072.03

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 **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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHALKER FLORES, LLP
2711 LBJ FRWY
Suite 1036
DALLAS TX 75234

MAILED
MAR 30 2011
OFFICE OF PETITIONS

In re Application of :
Snell et al. :
Application Number: 11/856036 : ON PETITION
Filing Date: 09/15/2007 :
Attorney Docket Number: :
UTSW:1054

This is a decision in response to the petition under 37 CFR 1.137(b) filed on February 10, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on November 5, 2010, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on August 4, 2010, which set a three (3) month statutory period for reply. On November 4, 2010, a Request for Continued Examination (RCE) was filed. On November 24, 2010, however, a Notice of Improper Request for Continued Examination (RCE) was mailed, stating the RCE under 37 CFR 1.114 was improper because it was not accompanied by a submission as required by 37 CFR 1.114. Notice of Abandonment was mailed on February 15, 2011.

Receipt of the issue and publication fees and submission under 37 CFR 1.114 is acknowledged.

The application is referred to Technology Center Art Unit 1645 for further processing.

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

/DWood/
Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MUSKIN & CUSICK LLC
100 West Main Street
SUITE 205
Lansdale PA 19446

MAILED
MAR 13 2012
OFFICE OF PETITIONS

In re Application of

Schugar : DECISION ON PETITION

Application No. 11/856,060

Filed: September 17, 2007

Attorney Docket No. **867-20**

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 26, 2011, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on August 27, 2011. A Notice of Abandonment was mailed on December 15, 2011.

The amendment filed February 6, 2012, is noted.

The application is being forwarded to Technology Center 3700, GAU 3718 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FOX ROTHSCHILD LLP
997 LENOX DRIVE
BUILDING 3
LAWRENCEVILLE, NJ 08648

MAILED

AUG 13 2010

OFFICE OF PETITIONS

In re Application of :
Shant Hovnanian et al :
Application No. 11/856,194 : DECISION ON PETITION
Filed: September 17, 2007 : TO WITHDRAW
Attorney Docket No. QoS Wibiki (SPEEC 32403-A : FROM RECORD
:

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

The request is **APPROVED**.

The request was signed by Richard Woodbridge on behalf of the practitioners of record associated with Customer Number 20802.

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

All future correspondence will be directed to assignee Speedus Corp. at the first address (assignee's address of record) indicated below.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Speedus Corp.
9 Desbrosses Street, Suite 402
New York, NY 10013

cc: Speedus Corp.
1 Dag Hammarskjold Blvd.
Freehold, NJ 07728

cc: Richard Woodbridge
Fox Rothschild LLP
P.O. Box 5231
Princeton, NJ 08543

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/856,194	09/17/2007	Shant Hovnanian	QoS Wibiki (SPEEC 32403-A

CONFIRMATION NO. 8492

20802
FOX ROTHSCHILD LLP
997 Lenox Drive
Building 3
Lawrenceville, NJ 08648

POWER OF ATTORNEY NOTICE

Date Mailed: 08/13/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/29/2010.

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

/idingle/

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 NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/856,194	09/17/2007	Shant Hovnanian	QoS Wibiki (SPEEC 32403-A

CONFIRMATION NO. 8492

Speedus Corp.
9 Desbrosses Street, Suite 402
New York, NY 10013

POA ACCEPTANCE LETTER

Date Mailed: 08/13/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/29/2010.

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

/idingle/

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

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AUG 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Shant Hovnanian et al	:	
Application No. 11/856,215	:	DECISION ON PETITION
Filed: September 17, 2007	:	TO WITHDRAW
Attorney Docket No. Bikiboard USA (SPEEC 3240	:	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 29, 2010.

The request is **APPROVED**.

The request was signed by Richard Woodbridge on behalf of the practitioners of record associated with Customer Number 20802.

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

All future correspondence will be directed to assignee Speedus Corp. at the first address (assignee's address of record) indicated below.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Speedus Corp.
9 Desbrosses Street, Suite 402
New York, NY 10013

cc: Speedus Corp.
1 Dag Hammarskjold Blvd.
Freehold, NJ 07728

cc: Richard Woodbridge
Fox Rothschild LLP
P.O. Box 5231
Princeton, NJ 08543

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/856,215	09/17/2007	Shant Hovnanian	Bikiboard USA (SPEEC 3240

CONFIRMATION NO. 8529

20802
FOX ROTHSCHILD LLP
997 Lenox Drive
Building 3
Lawrenceville, NJ 08648

POWER OF ATTORNEY NOTICE

Date Mailed: 08/13/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/29/2010.

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

/idingle/

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/856,215	09/17/2007	Shant Hovnanian	Bikiboard USA (SPEEC 3240

CONFIRMATION NO. 8529

Speedus Corp.
9 Desbrosses Street
Suite 402
New York, NY 10013

POA ACCEPTANCE LETTER

Date Mailed: 08/13/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/29/2010.

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

/idingle/

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

Application Number	Application/Control No.	Applicant(s)/Patent under Reexamination	
	11/856,232	KALAMAKIS ET AL.	

Document Code - DISQ	Internal Document – DO NOT MAIL

TERMINAL DISCLAIMER	☒ APPROVED	☐ DISAPPROVED
Date Filed : 10/29/2010	This patent is subject to a Terminal Disclaimer	

Approved/Disapproved by:
Dorethea Lawrence

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/856,273	09/17/2007	Melvin Guiles	SHA01 P432	8637

277 7590 08/20/2010

PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS, MI 49501

EXAMINER	
ING, MATTHEW W	
ART UNIT	**PAPER NUMBER**
3637	

MAIL DATE	DELIVERY MODE
08/20/2010	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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AUG 20 2010

PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

In re Application of: Melvin GUILES	: DECISION ON PETITION
Appl. No. 11/856,273	: TO WITHDRAW
Filed: September 17, 2007	: THE HOLDING OF
For: GLIDE RAIL SYSTEM FOR	: NEW MATTER
SUPPORTING GLIDING EXTENSION	: UNDER 37 CFR 1.181

This is a decision on applicant's petition filed under 37 CFR 1.181 on November 26, 2008 to withdraw the holding of new matter in the amendments made in the drawings and specification filed on September 18, 2008.

The petition is **DISMISSED AS MOOT.**

Applicant alleges that the drawing figure 1 was amended to add a dimension 60, and an end 61 which are not new matter since these items are clearly discussed in the specification. Applicant further argues that the amended paragraph [0018] clearly identify the raised dimension 60 which has clear support from the original description in paragraph [0018].

A review of the record shows that in the Office action dated June 19, 2008 the examiner objected to the drawings for not showing "a plug" and "a first end of an extension member positioned above a second end" recited in claim 8, in accordance to MPEP 608.01 (g) which specifies that "*Every feature specified in the claims must be illustrated.*" Applicant amended the drawings and the specification in a response filed on September 18, 2008. Drawing figure 1 was amended to show plug (43) with an end (61), and a distance (60) on the left side of the plug (43). The specification was amended in paragraphs [0015] and [0018] to include descriptions to the newly added elements (61) and (60).

In the final Office action dated October 28, 2008, the examiner maintained the drawing objection and objected to the amended specification in paragraphs [0015] and [0018] for new matter. The amended drawing figure 1 was not entered on the ground that the particular locations of the end (61) of the plug (43) and the dimension (60) were not described in the original specification or illustrated in the original drawings.

MPEP 608.02 regarding "Receipt of Drawing after the filing date" states that "*If the examiner discovers new matter in a substitute or additional drawing, the drawing should not be entered. The drawing should be objected to as containing new matter.*"

A review of the original drawings shows a plug (43), and two spaced apart stationary glides (32) mounted on a tubular track (31) in figure 1. The plugs (43) are shown as a 2-dimensional plate in both figures 1 and 3. The original specification discloses in paragraph [0015] that "*A polymeric plug 43 (Fig. 1) friction-fits into each end of the extension member 31 and limits sliding extension of the extension member 31 on the glides 32 and 34. The plugs 43 further close ends of the extension member 31.*" It is noted that the original written description does not disclose the specific feature of an end portion of the plug (43) and how it can be friction-fitted into each end of the extension member. Therefore, neither the original drawings nor the original written specification can provide support for an end feature on the plugs (43) as presented in the amended drawing figure 1.

Similarly, the original drawings show two spaced apart stationary glides (32) mounted on the tubular track (31) in figure 1, and a cross section of a glide in figure 3A. The original specification discloses in paragraph [0018] that "*The front outer glide 32 is positioned about ¼ inch higher than the rear outer glide 32, so that the tubular tracks 31 are tilted to drain toward a rear of the track.*" Neither the original drawing figures 1-3A nor the written specification specifically indicate which glide (32) is the front outer glide or the rear outer glide, or which end of the tubular track 31 is the front end and which end is the rear end. Neither the original drawings nor the original written specification can provide support for the specifics of the dimension (60) presented in the amended drawing figure 1.

Therefore, the examiner's holding as new matters in the amended drawing figure 1 and the changes made in paragraphs [0015] and [0018] of the specification by the September 18, 2008 amendment are proper in accordance to MPEP 608.02. Since the application is currently in abandoned status, applicant's petition is dismissed as moot.

Any questions regarding this decision should be directed to Quality Assurance Specialist Lanna Mai at 571-272-6867.

Katherine Matecki

Kathy Matecki, Director
Technology Center 3600
572-272-5250

lm: 8/11/10

LM

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE CA 92618-3731

In re Application of :
FUJINO, TORU :
Application No. 11/856,507 :
Filed: September 17, 2007 :
Attorney Docket No. **10033505US01** :

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 for reconsideration to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed July 6, 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
(7) The required petition fee under 37 CFR 1.17(h).

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
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Alexandria, VA 22313-1450
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ENTELOS, INC.
c/o Law Offices of Karen E. Flick
P.O. Box 515
El Granada CA 94018-0515

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Application of :
Mark Fielden, et al. :
Application No. 11/856,608 :
Filed: September 17, 2007 :
Attorney Docket No. ENTL-060.US1 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed October 5, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

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

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

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **NIH Office of General Counsel**
31 Center Drive, Building 31, Room 2B-47
Bethesda, MD 20892

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WINSTEAD PC
P.O. BOX 50784
DALLAS, TX 75201

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SEP 16 2010

OFFICE OF PETITIONS

In re Application of :
Wolfe et al. :
Application No. 11/856,615 : DECISION ON PETITION
Filed: September 17, 2007 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 23853-P015US :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 24, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional Application No. 60/894,593, filed March 13, 2007, as set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

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

The instant petition does not comply with item (1) above.

This pending nonprovisional application was filed on September 17, 2007, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/894,593, which was filed on March 13, 2007, 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 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. § 119(e) statement and the impermissible introduction of new

matter by way of incorporation by reference in a 35 U.S.C. § 119(e) statement. The court specifically stated:

> Section 119(e) 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 119(e) itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 119(e) contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

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

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

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

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

---

[1] *Note* 37 CFR 1.121

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FEB 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Wolfe et al.	:	
Application No. 11/856,615	:	DECISION ON PETITION
Filed: September 17, 2007	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 23853-P015US	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed January 24, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional Application No. 60/894,593, filed March 13, 2007, as set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed on September 17, 2007, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/894,593, which was filed on March 13, 2007, 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.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The petition fee of $1,410 submitted with the renewed petition on January 24, 2011, will be credited to petitioner's deposit account since this fee was previously paid on June 24, 2010.

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

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

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

This matter is being referred to Technology Center Art Unit 2881 for appropriate action on the amendment submitted January 24, 2011, including consideration by the examiner 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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : March 29, 2012

In re Application of :

Rusty Mayhew

Application No : 11856622

Filed : 17-Sep-2007

Attorney Docket No : PRG-139AUTOSTOP

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed March 29, 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.

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

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

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

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)
Application Number	11856622
Filing Date	17-Sep-2007
First Named Inventor	Rusty Mayhew
Art Unit	2121
Examiner Name	MARIA VON BUHR
Attorney Docket Number	PRG-139AUTOSTOP
Title	STAGE COMMAND AUTOSTOP

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

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

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

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

☐ Applicant(s) status remains as SMALL ENTITY.

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

Issue Fee and Publication Fee :

Issue Fee and Publication Fee must accompany ePetition.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◉ Drawing corrections and/ or other deficiencies are not required

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

○ Drawing corrections and/ or other deficiencies are attached.

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole inventor

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

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

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

Signature	/Scott C Harris/
Name	Scott Harris
Registration Number	32030

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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DEC 23 2010

OFFICE OF PETITIONS

DLA PIPER LLP (US)
2000 UNIVERSITY AVENUE
EAST PALO ALTO CA 94303-2248

In re
Patent No. 7,451,694
Issued: November 18, 2008
Application No. 11/856,629
Filed: September 17, 2007

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed October 28, 2010.

The fee deficiency submission under 37 CFR 1.28 of $665 for the application filing fees, $70 for the one month extension of time, and $755 for the issue fee, is hereby accepted.

The change of status to large entity has been entered.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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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NELLCOR PURITAN BENNETT LLC
ATTN: IP LEGAL
6135 GUNBARREL AVENUE
BOULDER, CO 80301

MAILED

AUG 26 2010

OFFICE OF PETITIONS

In re Application of
Charles L. WALLACE, et al.
Application No. 11/856,632
Filed: September 17, 2007
Attorney Docket No. **076041.1114**

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

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed July 20, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this

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

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

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. David C. St John-Larkin appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. St John-Larkin desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. St John-Larkin, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Any inquiries concerning this decision may be directed to Monica A. Graves at (571) 272-7253. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3771 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **DAVID C. ST. JOHN-LARKIN**
MERCHANT & GOULD, PC.
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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
11/856,632	09/17/2007	3771	1250	076041.1114	21	4

CONFIRMATION NO. 9401

70905
NELLCOR PURITAN BENNETT LLC
ATTN: IP LEGAL
6135 Gunbarrel Avenue
Boulder, CO 80301

CORRECTED FILING RECEIPT

Date Mailed: 08/25/2010

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

Applicant(s)

Charles L. Wallace, Encinitas, CA;
Warren G. Sanborn, Escondido, CA;
David Arnett, Half Moon Bay, CA;
Jay Butterbrodt, Lawrenceburg, IN;
Howard L. Ferguson, Elk, WA;

Power of Attorney: The patent practitioners associated with Customer Number 31625

Domestic Priority data as claimed by applicant

This application is a CON of 11/366,259 03/02/2006 PAT 7,270,126
which is a CON of 10/733,794 12/10/2003 PAT 7,036,504
which is a CON of 09/882,200 06/15/2001 PAT 6,675,801
which is a CON of 09/253,387 02/19/1999 PAT 6,269,812
which is a CON of 08/818,807 03/14/1997 PAT 5,881,723

Foreign Applications

If Required, Foreign Filing License Granted: 10/01/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/856,632**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

VENTILATOR BREATH DISPLAY AND GRAPHIC USER INTERFACE

Preliminary Class

128

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

MAILED
FEB 06 2012
OFFICE OF PETITIONS

In re Patent No. 8,058,107 :
Issue Date: November 15, 2011 :
Application No. 11/856,635 : DECISION ON PETITION
Filed: September 17, 2007 :
Attorney Docket No. 83778-732348(019510US) :

This is a decision on the Request For Certificate Of Correction Under 37 CFR § 1.322, filed November 30, 2011, which is being treated as a Petition Under 37 CFR 3.81(b), to insert assignee's name --Fairchild Semiconductor Corporation-- to the Title Page of the Patent via a Certificate of Correction.

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

Petitioner requests that the present Petition was submitted to insert assignee's name --Fairchild Semiconductor Corporation-- on the previously submitted PTOL-85B.

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

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

A petition under 37 CFR §3.81(b) requires a certificate of correction fee of $100.00 (Fee Code 1811), as set forth under 37 CFR 1.20(a), and a petition processing fee of $130.00 (Fee Code 1464), as set forth under 37 CFR 1.17(i). This petition lacks both fees. For this reason, the petition is dismissed.

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

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 19 2012

OFFICE OF PETITIONS

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

In re Patent No. 8,058,107	:	
Issue Date: November 15, 2011	:	
Application No. 11/856,635	:	DECISION ON PETITION
Filed: September 17, 2009	:	
Attorney Docket No. 83778-732348(019510US)	:	

This is a decision on the Renewed Request To Correct The Assignee Under 37 CFR §3.81(b), filed March 6, 2012,), to identify the correct assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

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

The petition decision mailed February 6 , 2012, dismissed the 37 CFR §3.81(b) petition filed November 30, 2011, because petitioner failed to include a certificate of correction fee of $100.00 and a petition processing fee of $130.00 with the petition. The renewed petition includes the required fees.

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. 8,058,107.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SLATER & MATSIL, L.L.P.
17950 PRESTON ROAD
SUITE 1000
DALLAS TX 75252

MAILED

MAR 25 2011

OFFICE OF PETITIONS

In re Application of	:	
Kasko et al.	:	DECISION ON PETITION
Application No. 11/856,647	:	TO WITHDRAW
Filed: September 17, 2007	:	FROM RECORD
Attorney Docket No. QIM 2007 VJ 33074 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 February 14, 201.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the **entire interest** *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. *See* **Change In Procedure For Requests To Withdraw From Representation In A Patent Application 1329 OG 99 (April 8, 2008).**

Further, 37 CFR 3.71(c) states:

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

Therefore, as there is currently no Statement under 37 CFR 3.73(b) of record in the instant application for all assignees, the Office cannot change the correspondence address to the address on the Request to Withdraw. Additionally, it is noted that Qimonda AG is not the assignee of the entire interest. A review of USPTO records reveals that Altis Semiconductor, SNC is also an assignee. The combination of all partial assignees with ownership interest is required to conduct prosecution of an application.

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

Further, the instant application became abandoned on September 24, 2010 for failure to timely respond to the Office action mailed August 23, 2010. The Office will not decide requests to withdraw from representation as practitioner of record which are filed after the expiration date of a time period for reply or the expiration date of a time period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a). As such, any renewed Request to Withdraw as Attorney will not be treated on the merits, but will only be placed in the 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

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K&L GATES LLP
P.O. BOX 1135
CHICAGO IL 60690

MAILED

OCT 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Aberin et al.	:	
Application No. 11/856,704	:	ON PETITION
Filed: September 17, 2007	:	
Attorney Docket No. 1511FS0182	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed October 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and a Submission under 37 CFR 1.114, (2) the petition fee of $1620.00, and (3) a proper statement of unintentional delay.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

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

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

This matter is being referred to Technology Center AU 2835 for processing of the RCE filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: DANIEL N. DAISAK
4500 BROOKTREE ROAD, SUITE 302
WEXFORD, PA 15090

UNITED STATES PATENT AND TRADEMARK OFFICE

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Dennis Donahue & Associates LLC
9648 Olive Blvd. No 226
St. Louis MO 63132

MAILED

DEC 01 2010

OFFICE OF PETITIONS

In re Application of :
Kissel et al. :
Application No. 11/856,880 : DECISION ON PETITION
Filed: September 18, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. EXN-2 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 19, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed 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 application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Charlema Grant at (571) 272-3215. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3764 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Christopher Bottorff
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
11/856,880	09/18/2007	3764	750	EXN-2	25	5

CONFIRMATION NO. 9875

92032
Dennis Donahue & Associates LLC
9648 Olive Blvd. No 226
St. Louis, MO 63132

CORRECTED FILING RECEIPT

Date Mailed: 11/30/2010

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)

Robert M. Kissel, Lithia, FL;
Edward G. Eubanks, St. Peters, MO;
James M. Houston, Evergreen, CO;
Scott A. Dye, Morrison, CO;
Dale A. Schoonover, Louisville, CO;
Michael R. Cottrell, Arvada, CO;

Power of Attorney: The patent practitioners associated with Customer Number 92032

Domestic Priority data as claimed by applicant

This application is a CIP of 10/688,251 10/17/2003 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 09/26/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/856,880**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

VARIABLE RESISTANCE SYSTEM

Preliminary Class

482

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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

SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE NW
SUITE 800
WASHINGTON DC 20037

MAILED

JAN 04 2011

OFFICE OF PETITIONS

In re Application of
Masatomo Shibata
Application No. 11/856,926
Filed: September 18, 2007
Attorney Docket No. Q103791

: 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 December 6, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional application No. 10/813,176, set forth in the amendment previously filed on January 22, 2010.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed application in the first sentence of the specification on page one following the title is not acceptable as drafted since it

improperly incorporates by reference the prior-filed 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).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

By mail:
Mail Stop PETITIONS
Commissioner for Patents
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 Petitions Attorney Cliff Congo at (571) 272-3207.

Chris Bottorff
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE NW
SUITE 800
WASHINGTON DC 20037

MAILED

MAR 31 2011

OFFICE OF PETITIONS

In re Application of :
Masatomo Shibata :
Application No. 11/856,926 : DECISION ON PETITION
Filed: September 18, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. Q103791 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed January 11, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional application No. 10/813,176, set forth in the amendment previously filed on January 22, 2010.

The petition is **GRANTED**.

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

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

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

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

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

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

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

Chris Bottorff
Petitions Examiner
Office of Petitions

Enc: corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/856,926	09/18/2007	2813	1300	Q103791	20	1

CONFIRMATION NO. 9954

CORRECTED FILING RECEIPT

23373
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

OC000000045865585

Date Mailed: 02/07/2011

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

Applicant(s)

Masatomo Shibata, Tokyo, JAPAN;

Assignment For Published Patent Application

HITACHI CABLE LTD., Chiyoda-ku, JAPAN

Power of Attorney: The patent practitioners associated with Customer Number 23373

Domestic Priority data as claimed by applicant

This application is a DIV of 10/813,176 03/31/2004 PAT 7,288,830

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)
JAPAN 2003-304078 08/28/2003
JAPAN 2003-356699 10/16/2003

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: 10/10/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/856,926**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

III-V NITRIDE SEMICONDUCTOR SUBSTRATE AND ITS PRODUCTION METHOD

Preliminary Class

438

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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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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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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KATTEN MUCHIN ROSENMAN LLP
(C/O PATENT ADMINISTRATOR)
2900 K STREET NW, SUITE 200
WASHINGTON, DC 20007-5118

MAILED

JAN 3 1 2011

OFFICE OF PETITIONS

In re Application of
Steven T. Mandell
Application No. 11/856,933
Filed: September 18, 2007
Attorney Docket No. 333509-00100

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 29, 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 Katten Muchin Rosenman, LLP 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.

A further review of the file indicates that the oath/declaration did not include a power of attorney.

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

There is an outstanding Office action mailed July 8, 2010 that requires a reply by applicant.

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

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

cc: STEVEN MANDELL
220 HURON STREET
CHICAGO, IL 60610-3613

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LACKENBACH SIEGEL, LLP
LACKENBACH SIEGEL BUILDING
1 CHASE ROAD
SCARSDALE NY 10583

MAILED

SEP 01 2011

OFFICE OF PETITIONS

In re Application of :
Farrell, Terry C. :
Application No. 11/857,010 : ON PETITION
Filed: September 18, 2007 :
Attorney Docket No. CHANN,P-9 (P004CIP) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 12, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This application is being referred to Technology Center AU 3727 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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BRINKS HOFER GILSON & LIONE/CHICAGO/COOK
PO BOX 10395
CHICAGO IL 60610

MAILED
JUL 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,959,595 :
Melsheimer et al. : DECISION ON REQUEST FOR
Issue Date: June 14, 2011 : RECONSIDERATION OF
Application No. 11/857,060 : PATENT TERM ADJUSTMENT
Filed: September 18, 2007 :
Attorney Docket No. 8627-1463 :
(PA-6183-RFB) :
Title: CATHETER ASSEMBLY :
:

This is a decision on the petition filed under 37 CFR 1.705(d) on June 21, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred twenty (420) days.

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

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 163 days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 269 days.

Patentee's calculation fails to take into account that a notice of appeal was filed on February 25, 2010. 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 133 days, beginning on February 25, 2010, the date of filing of the notice of appeal and ending on July 7, 2010 the subsequent date of the mailing of a non-final Office action. Thus, B delay is 136 (269 - 133) days.

Patentees' delay total 12 days.

In view thereof, the patent is entitled to an overall adjustment of 287 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 $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from deposit account no. 23-1925. 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Mar-11

MICHAEL B. MARTIN
PATENT AND LICENSING DEPARTMENT
NALCO COMPANY
1601 WEST DIEHL ROAD
NAPERVILLE IL 60563-1198

MAILED

MAR 30 2011

OFFICE OF PETITIONS

In re Application of	:	
Bo L. Tran	:	
Application Number: 11/857093	:	ON PETITION
Filing Date: 09/18/2007	:	
Attorney Docket Number: 8082	:	

This is a decision in response to the petition under 37 CFR 1.137(b) filed on February 10, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on September 24, 2010, for failure to timely reply to the non-final Office action mailed on June 23, 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 February 1, 2011.

Receipt of the amendment filed on February 10, 2011 is acknowledged.

The application is referred to Technology Center Art Unit 1771 for further processing.

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

/DWood/

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 09/21/11

TO SPE OF : ART UNIT 2894

SUBJECT : Request for Certificate of Correction for Appl. No.: 11857130 Patent No.: 7947564

CofC mailroom date: 09/08/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Director/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: The Certificate of Correction filed September 8, 2011 has been approved.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Kimberly Nguyen/	2894
SPE	**Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

MAILED

AUG 20 2010

OFFICE OF PETITIONS

In re Application of :
Ma, et al. :
Application No. 11/857,146 : DECISION ON PETITION
Filed: September 18, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. HW701883 : 37 CFR 1.102
:

This is a decision on the petition under 37 CFR 1.102 filed July 22, 2010, to make the above-identified application special under the Patent Application Backlog Reduction Stimulus Plan which is a pilot program set forth at 74 Federal Register Notice 62285 (November 27, 2009).

Any request for reconsideration of this decision should include a cover letter entitled "Renewed Petition under 37 CFR 1.102." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 62285 must be directed to a nonprovisional application filed prior to October 1, 2009.

The USPTO will accord special status for examination under Patent Application Backlog Reduction Stimulus Plan under the following conditions:

(1) The application for which special status is sought is a nonprovisional application that has an actual filing date earlier than October 1, 2009, in which the applicant has established small entity status under 37 CFR 1.27;

(2) The applicant has another copending nonprovisional application that has an actual filing date earlier than October 1, 2009, and is complete under 37 CFR 1.53;

(3) The application for which special status is sought and the other copending nonprovisional application either are owned by the same party as of October 1, 2009, or name at least one inventor in common;

(4) The applicant files a letter of express abandonment under 37 CFR 1.138(a) in the copending nonprovisional application before it has been taken up for examination and

a) includes with the letter of express abandonment a statement that the applicant has not and will not file an application that claims the benefit of the expressly abandoned application under any provision of title 35, United States Code, and

b) the applicant agrees not to request a refund of any fees paid in the expressly abandoned application; and

(5) The applicant files a petition under 37 CFR 1.102 in the application for which special status is sought.

The requirement for a fee for consideration of the petition to make special for applications pertaining to Patent Application Backlog Reduction Stimulus Plan has been waived.

The petition lacks item(s) (1) above.

A review of the record did not reveal that applicant has established small entity status under 37 CFR 1.27 in the above-identified application for which special status is sought under 37 CFR 1.102. Such is a requirement for a successful petition under 37 CFR 1.102 to make this application special under the Patent Application Backlog Reduction Stimulus Plan.
If appropriate, applicant may establish small entity status under 37 CFR 1.27 in the above-identified application and file a renewed petition under 37 CFR 1.102 to make this application special under the Patent Application Backlog Reduction Stimulus Plan.

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

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

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

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at 571-272-3222.

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

The application is being forwarded to the Technology Center Art Unit 2617 for action in its regular turn.

Chris Bottorff
Supervisor
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.
11/857,315	09/18/2007	Alfio Castorina	852063.417	1655

38106 7590 11/22/2011

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE, WA 98104-7092

EXAMINER	
LAM, HUNG H	

ART UNIT	PAPER NUMBER
2622	

MAIL DATE	DELIVERY MODE
11/22/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

November 21, 2011

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE WA 98104-7092

In re Application of :
Alfio Castorina et al :
Application No. 11857315 :
Filed: 09/18/2007 :
Attorney Docket No. **852063.417** :

DECISION ON PETITION

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) December 3, 2007.

The petition is **DISMISSED.**

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

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question (One (1) set for EFW filings), and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings

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

The petition did not meet the following requirement(s). 1 ☐ 2 ☑ 3 ☐

A renewed petition filed under 37 C.F.R. 1.84 (a) (2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

December 20, 2011

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE WA 98104-7092

In re Application of	:	
Alfio Castorina et al.	:	**DECISION ON PETITION**
Application No. 11857315	:	
Filed: 9/18/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **852063.417**	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) December 12, 2011.

The petition is **GRANTED**.

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

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

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

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

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

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	11/857,414	KOPRESKI, MICHAEL S.	
	Examiner	Art Unit	
	FRANK LU	1634	

ISSUE CLASSIFICATION

ORIGINAL CLASS	ORIGINAL SUBCLASS	CROSS REFERENCE(S) CLASS	CROSS REFERENCE(S) SUBCLASS (ONE SUBCLASS PER BLOCK)						
435	91.2	435	6.1	6.12	91.1				
INTERNATIONAL CLASSIFICATION		536	23.1	24.3	24.33	25.3			
C12P	19/34								
C12Q	1/68								
C07H	21/02								
C07H	21/04								
C07H	21/00								

(Assistant Examiner) (Date)	/Frank W Lu/ 11/30/2011 (Primary Examiner) (Date)	Total Claims Allowed: 8	
(Legal Instruments Examiner) (Date)		O.G. Print Claim(s): 1	O.G. Print Fig.: None

☐ Claims renumbered in the same order as presented by applicant ☒ CPA ☒ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
1	1		31		61		91		121		151		181
4	2		32		62		92		122		152		182
2	3		33		63		93		123		153		183
5	4		34		64		94		124		154		184
3	5		35		65		95		125		155		185
6	6		36		66		96		126		156		186
	~~7~~		37		67		97		127		157		187
	~~8~~		38		68		98		128		158		188
	~~9~~		39		69		99		129		159		189
	~~10~~		40		70		100		130		160		190
	~~11~~		41		71		101		131		161		191
	~~12~~		42		72		102		132		162		192
	~~13~~		43		73		103		133		163		193
	~~14~~		44		74		104		134		164		194
	~~15~~		45		75		105		135		165		195
	~~16~~		46		76		106		136		166		196
	~~17~~		47		77		107		137		167		197
	~~18~~		48		78		108		138		168		198
7	19		49		79		109		139		169		199
	~~20~~		50		80		110		140		170		200
8	21		51		81		111		141		171		201
	~~22~~		52		82		112		142		172		202
	~~23~~		53		83		113		143		173		203
	24		54		84		114		144		174		204
	25		55		85		115		145		175		205
	26		56		86		116		146		176		206
	27		57		87		117		147		177		207
	28		58		88		118		148		178		208
	29		59		89		119		149		179		209
	30		60		90		120		150		180		210

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300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED

MAR 21 2012

OFFICE OF PETITIONS

In re Application :
Michael S. Kopreski :
Application No. 11/857,414 : DECISION ON APPLICATION
Filed: September 18, 2007 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **00-1312-S1** :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed March 6, 2012. Applicant requests that the determination of patent term adjustment be corrected from 295 days to 642 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 court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

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 of the patent term adjustment concerning those regulations until the patent has issued.

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[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[2]

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

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

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[2] 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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COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA PA 19103-2212

MAILED
MAY 26 2011
OFFICE OF PETITIONS

In re Application of :
Wendy Marie Medeiros HOWARD :
Application No. 11/857,434 : ON PETITION
Filed: September 18, 2007 :
Attorney Docket No. H1180/20001 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 19, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 29, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 30, 2010.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, a Request for Continued Examination, and the $405 filing fee; (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of October 29, 2009 is accepted as having been unintentionally delayed.

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

Application No. 11/857,434

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 3772 for appropriate action on the concurrently filed Request for Continued Examination and amendment.

David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/857,485	09/19/2007	Yaohui Li	Q103796	1997

7590 11/19/2010

Docket Clerk/HTCL
P.O. Drawer 800889
Dallas, TX 75380

EXAMINER	
TRAN, TONGOC	

ART UNIT	PAPER NUMBER
2434	

NOTIFICATION DATE	DELIVERY MODE
11/19/2010	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 Tarnes

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

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LAW OFFICES OF MARK L. BERRIER
3811 BEE CAVES ROAD
SUITE 204
AUSTIN TX 78746

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Clarence Thomas	:	DECISION ON PETITION
Application No. 11/857,502	:	UNDER 37 CFR 1.78(a)(3)
Filed: September 19, 2007	:	
Atty Docket No. 3DIP00102	:	

This is a decision on the PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED BENEFIT CLAIM filed September 21, 2010. This petition is properly being treated under 37 C.F.R. § 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional application No. 11/272,539.

The petition is **GRANTED**.

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

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

the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

A reference to the prior-filed application has been properly included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii). Receipt of the surcharge is acknowledged. The petition includes an acceptable statement of unintentional delay.

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 2872 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § 120 of the prior-filed

applications as set forth in the amendment filed September 21, 2010.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
11/857,502	09/19/2007	2872	925	3DIP00102	18	8

CONFIRMATION NO. 1035

CORRECTED FILING RECEIPT

42671
LAW OFFICES OF MARK L. BERRIER
3811 BEE CAVES ROAD
SUITE 204
AUSTIN, TX 78746

Date Mailed: 01/03/2011

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

Applicant(s)

Clarence E. Thomas, Knoxville, TN;

Power of Attorney: The patent practitioners associated with Customer Number 42671

Domestic Priority data as claimed by applicant

This application is a CON of 11/272,539 11/10/2005 PAT 7,289,253

Foreign Applications

If Required, Foreign Filing License Granted: 10/01/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/857,502**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

System and Methods for Shearless Hologram Acquisition

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.

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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NOV 22 2010

OFFICE OF PETITIONS

In re Application of :
Young Han Joo et al. :
Application No. 11/857,568 : DECISION ON PETITION
Filed: September 19, 2007 :
Attorney Docket No. 1819.03 :

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

This application became abandoned for failure to timely pay the issue and publication fees on or before January 7, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed October 7, 2008. Accordingly, the date of abandonment of this application is January 8, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; 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 the Office of Data Management for processing into a patent.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 2 8 2010

OFFICE OF PETITIONS

PATRICK W. RASCHE (22697)
ARMSTRONG TEASDALE LLP
7700 Forsyth Boulevard
Suite 1800
St. Louis MO 63105

In re Application of	:	
Frederick Wilson Wheeler, et al.	:	
Application No. 11/857,581	:	DECISION ON PETITION
Filed: September 19, 2007	:	
Attorney Docket No. 223656	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 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 July 16, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 16, 2010. Accordingly, the date of abandonment of this application is July 17, 2010. The Notice of Abandonment was mailed August 3, 2010.

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

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20120217

DATE : 2/16/12

TO SPE OF : ART UNIT: 3643

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/857,602 Patent No. 7,980,023

CofC mailroom date 2/9/12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: The change at Claim 6, Column 12, Lines 20-21 does not apply since there is no such language present in Claim 6. The change should have instead been made at Claim 5, Column 12, Lines 20-21.

/Peter M. Poon/

SPE

3643

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : August 17, 2011

TO SPE OF : ART UNIT 2111

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/857,661 Patent No.:7970979

CofC mailroom date: 07/26/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: Should the changes be made?

RoChaun Hardwick
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

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

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

Comments: Approved

/Mark Rinehart/ **SPE** 2111 **Art Unit**

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VEDDER PRICE P.C.
1633 BROADWAY, 47TH FLOOR
NEW YORK NY 10019

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MAR 17 2011

OFFICE OF PETITIONS

In re Application of :
Karsten Matthias Kragh et al :
Application No. 11/857,691 : DECISION GRANTING PETITION
Filed: September 19, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 43065.02.2007 :

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

Petitioner should note that the facsimile number for the petitions to withdraw from issue directly to the Office of Petitions is **571-273-0025** and not 571-273-0174.

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

This application is being referred to Technology Center AU 1652 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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KUSNER & JAFFE
HIGHLAND PLACE SUITE 310
6151 WILSON MILLS ROAD
HIGHLAND HEIGHTS, OH 44143

Mail Date: 09/07/2010

Applicant	: Shinji Kumazawa	: DECISION ON REQUEST FOR
Patent Number	: 7624634	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/857,694	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/19/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **69** 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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Decision Date : September 16,2011

In re Application of :

Dongdong Wang

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11857695

Filed : 19-Sep-2007

Attorney Docket No : 313770US53

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed September 16,201,1to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 2874 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	11857695
Filing Date	19-Sep-2007
First Named Inventor	Dongdong Wang
Art Unit	2874
Examiner Name	JERRY RAHLL
Attorney Docket Number	313770US53
Title	OPTICAL INTERCONNECT DEVICE AND METHOD FOR MANUFACTURING THE SAME

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	/Edwin Garlepp/
Name	Edwin D. Garlepp
Registration Number	45330

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

FEB 09 2011

OFFICE OF PETITIONS

In re Application of :
Li et al. :
Application No. 11/857,761 : DECISION ON PETITION
Filed: September 19, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 061818 : AND 37 CFR 1.78(a)(6)

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 September 19, 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 2463 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 application.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: **ATTACHMENT**: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/857,761	09/19/2007	2463	2000	061818	25	5

CONFIRMATION NO. 1526

CORRECTED FILING RECEIPT

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

Date Mailed: 02/08/2011

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

Applicant(s)

Junyi Li, Bedminister, NJ;
Arnab Das, Summit, NJ;
Rajiv Laroia, Far Hills, NJ;

Assignment For Published Patent Application

QUALCOMM INCORPORATED, San Diego, CA

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

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/845,939 09/19/2006
and is a CIP of 11/266,643 11/03/2005 PAT 7,720,479
which is a CON of 10/964,908 10/14/2004 PAT 6,993,333
which claims benefit of 60/511,964 10/16/2003
This application 11/857,761
is a CIP of 10/642,096 08/14/2003 PAT 7,366,200
which claims benefit of 60/406,076 08/26/2002
and is a CIP of 10/641,399 08/13/2003 PAT 6,985,498

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: 10/02/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/857,761**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

OFFSETTING BEACON POSITIONS IN A TIME DIVISION DUPLEX COMMUNICATION SYSTEM

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/857,767	09/19/2007	Robert P. Morris	1498/US	1533

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

EXAMINER
VU, KIEU D

ART UNIT	PAPER NUMBER
2173	

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 et al.
Application No. 11/857,767
Filed: September 19, 2007
For: **METHOD AND SYSTEM FOR PRESENTING A HOTSPOT IN A HYPERVIDEO STREAM**

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

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on January 25, 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on January 25, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/857,767	09/19/2007	Robert P. Morris	I498/US	1533

49277 7590 06/01/2011

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

EXAMINER	
VU, KIEU D	

ART UNIT	PAPER NUMBER
2173	

MAIL DATE	DELIVERY MODE
06/01/2011	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

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

In re Application of:
MORRIS, Robert et al.
Application No. 11/857,767
Filed: September 19, 2007
For: **METHOD AND SYSTEM FOR PRESENTING A HOTSPOT IN A HYPERVIDEO STREAM**

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

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on May 9, 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on May 9, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

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

/Eddie C. Lee/

Quality Assurance Specialist, TC 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/857,767	09/19/2007	Robert P. Morris	1498/US	1533

49277 7590 12/22/2011

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

EXAMINER	
VU, KIEU D	

ART UNIT	PAPER NUMBER
2173	

MAIL DATE	DELIVERY MODE
12/22/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Theodosios Thomas
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/857,767
Filed: September 19, 2007
For: METHOD AND SYSTEM FOR PRESENTING HOTSPOT IN HYPERVIDEO STREAM

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/857,767	09/19/2007	Robert P. Morris	1498/US	1533

49277 7590 03/29/2012

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

EXAMINER	
VU, KIEU D	

ART UNIT	PAPER NUMBER
2173	

MAIL DATE	DELIVERY MODE
03/29/2012	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Theodosios Thomas
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/857,767
Filed: September 19, 2007
For: METHOD AND SYSTEM FOR PRESENTING HOTSPOT IN HYPERVIDEO STREAM

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 28 March 2012.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 28 March 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

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

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

Doc Code: PPH.PCT.652
Document Description: Petition to make special under PCT-Patent Pros Hwy

PTO/SB/20PCT-KR (06-10)
Approved for use through 01/31/2012. OMB 0651-0058
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR PARTICIPATION IN THE PATENT COOPERATION TREATY - PATENT PROSECUTION HIGHWAY (PCT-PPH) PILOT PROGRAM BETWEEN THE KOREAN INTELLECTUAL PROPERTY OFFICE (KIPO) AND THE USPTO

Application No:	11/857,774	Filing date:	September 19, 2007
First Named Inventor:	Herman H. Viegas		
Title of the Invention:	Wall Construction For Insulated Enclosure		

THIS REQUEST FOR PARTICIPATION IN THE PCT-PPH PILOT PROGRAM ALONG WITH THE REQUIRED DOCUMENTS MUST BE SUBMITTED VIA EFS-WEB. INFORMATION REGARDING EFS-WEB IS AVAILABLE AT HTTP://WWW.USPTO.GOV/EBC/EFS_HELP.HTML

APPLICANT HEREBY REQUESTS PARTICIPATION IN THE PCT-PPH PROGRAM AND PETITIONS TO MAKE THE ABOVE-IDENTIFIED APPLICATION SPECIAL UNDER THE PCT-PPH PROGRAM.

The above-identified application is (1) a national stage entry of the corresponding PCT application, or (2) a national stage entry of another PCT application which claims priority to the corresponding PCT application, or (3) a national application that claims domestic/ foreign priority to the corresponding PCT application, or (4) a national application which forms the basis for the priority claim in the corresponding PCT application, or (5) a continuing application of a U.S. application that satisfies one of (1) to (4) above, or (6) a U.S. application that claims domestic benefit to a U.S. provisional application which forms the basis for the priority claim in the corresponding PCT application.

The corresponding PCT application number(s) is/are: PCT/US2007/078890

The international date of the corresponding PCT application(s) is/are: September 19, 2007

I. List of Required Documents:

a. **A copy of the latest international work product (WO/ISA, WO/IPEA, or IPER) in the above-identified corresponding PCT application(s)**

☒ Is attached.

☐ Is not attached because the document is already in the U.S. application.

b. **A copy of all claims which were indicated as having novelty, inventive step and industrial applicability in the above-identified corresponding PCT application(s).**

☐ Is attached.

☒ Is not attached because the document is already in the U.S. application.

c. **English translations of the documents in a. and b. above are attached (if the documents are not in the English language). A statement that the English translation is accurate is attached for the document in b. above.**

This collection of information is required by 35 U.S.C. 119, 37 CFR 1.55, and 37 CFR 1.102(d). The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.

Approved for use through 01/31/2012. OMB 0651-0058
U.S.Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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

REQUEST FOR PARTICIPATION IN THE PCT-PPH PILOT PROGRAM BETWEEN THE KIPO AND THE USPTO

(continued)

Application No.:	11/857,774
First Named Inventor	Herman H. Viegas

d. **(1) An information disclosure statement listing the documents cited in the international work products (ISR, WO/ISA, WO/IPEA, IPER) of the corresponding PCT application.**

☐ Is attached

☒ Has already been filed in the above-identified U.S. application on July 25, 2008

(2) Copies of all documents (except) for U.S. patents or U.S. patent application publications)

☐ Are attached.

Have already been filed in the above-identified U.S. application on July 25, 2008

II. Claims Correspondence Table:

Claims in US Application	Patentable Claims in the corresponding PCT Application	Explanation regarding the correspondence
1-37	1-37	Claims are identical

III. All the claims in the US application sufficiently correspond to the patentable claims in the corresponding PCT application.

Signature	Date 2010/11/17
Name (Print/Typed) Aaron K. Nodolf	Registration Number 62,081

PATENT COOPERATION TREATY

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION CONCERNING TRANSMITTAL OF COPY OF INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (CHAPTER I OF THE PATENT COOPERATION TREATY)
(PCT Rule 44bis.1(c))

To:

SMITH, David, B.
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Suite 3300
Milwaukee, WI 53202-4108
ETATS-UNIS D'AMERIQUE

Michael Best & Friedrich LLP
RECEIVED
APR 12 2010
DOCKETING
MILWAUKEE, WI

Date of mailing *(day/month/year)* 01 April 2010 (01.04.2010)	
Applicant's or agent's file reference 09040-9616	**IMPORTANT NOTICE**
International application No. PCT/US2007/078890	International filing date *(day/month/year)* 19 September 2007 (19.09.2007)
Priority date *(day/month/year)*	
Applicant THERMO KING CORPORATION et al	

The International Bureau transmits herewith a copy of the international preliminary report on patentability (Chapter I of the Patent Cooperation Treaty)

CITE REFERENCES ON RELATED APPLICATIONS?

Docketed on 6-24-2010

☐ No References Cited

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 82 70	Authorized officer Philippe Becamel e-mail: pt12.pct@wipo.int

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44*bis*)

Applicant's or agent's file reference 090402-9616	**FOR FURTHER ACTION**	See item 4 below
International application No. PCT/US2007/078890	International filing date *(day/month/year)* 19 September 2007 (19.09.2007)	Priority date *(day/month/year)*
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant THERMO KING CORPORATION		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 *bis*.1(a).

2. This REPORT consists of a total of 7 sheets, including this cover sheet.

   In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

☒	Box No. I	Basis of the report
☐	Box No. II	Priority
☐	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
☐	Box No. IV	Lack of unity of invention
☒	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
☐	Box No. VI	Certain documents cited
☐	Box No. VII	Certain defects in the international application
☒	Box No. VIII	Certain observations on the international application

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44*bis*.3(c) and 93*bis*.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44*bis* .2).

	Date of issuance of this report 24 March 2010 (24.03.2010)
The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 82 70	Authorized officer Philippe Becamel e-mail: pt12.pct@wipo.int

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US2007/078890

Box No. I Basis of this opinion

1. With regard to the **language**, this opinion has been established on the basis of :

   ☒ the international application in the language in which it was filed

   ☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b))

2. ☐ This opinion has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43*bis*.1(a))

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

   a. type of material

   ☐ a sequence listing

   ☐ table(s) related to the sequence listing

   b. format of material

   ☐ on paper

   ☐ in electronic form

   c. time of filing/furnishing

   ☐ contained in the international application as filed.

   ☐ filed together with the international application in electronic form.

   ☐ furnished subsequently to this Authority for the purposes of search.

4. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

5. Additional comments:

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US2007/078890

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-37	YES
	Claims	None	NO
Inventive step (IS)	Claims	1-37	YES
	Claims	None	NO
Industrial applicability (IA)	Claims	1-37	YES
	Claims	None	NO

2. Citations and explanations :

Reference is made to the following documents from the International Search Report (ISR):

D1: JP 2005-273696 A (MATSUSHITA ELECTRIC IND. CO., LTD.) 06 October 2005
D2: KR 10-1997-0011540 A (ASAHI GLASS CO., LTD.) 27 March 1997
D3: KR 10-2001-0079569 A (KAEFER INTEGRATED SERVICES PTY. LTD.) 22 August 2001
D4: KR 10-1999-0079841 A (DAE KYUNG STEEL IND. CO., LTD.) 05 November 1999

D1 discloses an insulation appliance provided with vacuum heat insulating material, the insulation appliance comprising: a core composed of a glass fiber assembly; and an external enclosing material having a gas barrier.

D2 discloses a backup structure for a high-temperature melt conduit, the backup structure comprising: disc-shaped flanges on the outer periphery of the high-temperature melt conduit; and thermal insulating bricks as the backup structure for the conduit.

D3 discloses an insulation module for a vessel comprising: a panel having an outer surface layer; an insulation layer secured to the outer surface layer; mounting means extending from the panel; and an air gap between the insulation layer and the outer vessel wall.

D4 discloses a dual steel pipe comprising: an inner steel pipe; an insulation material covering an outside of the inner steel pipe; a clamp member fixed on and under an outside of the insulation material; a warm-keeping material formed outside the clamp member; pipe supports formed outside the clamp member; and an outer pipe.

(Continued in the Supplemental Box.)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US2007/078890

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

The term "about" in claim 14 is not clear because the numerical range of the diameter defined by the term "about" is not exact (PCT Article 6).

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.
Continuation of :

Box V.

1. Novelty and Inventive Step

1.1 Claims 1-25

Independent claim 1 relates to an enclosure comprising: a wall including an interior wall member and an exterior wall member spaced apart from the interior wall member to define a gap; and an insulation member disposed between the interior wall member and the exterior wall member within the gap, including a vacuum insulation panel and foam insulation positioned on both sides of the vacuum insulation panel to separate the vacuum insulation panel from the interior and exterior wall members.

Independent claim 11 relates to an enclosure comprising: a wall including an interior wall member and an exterior wall member spaced apart from the interior wall member to define a gap; a wall support member disposed between the interior wall member and the exterior wall member within the gap; and an insulation member disposed adjacent to the wall support member and between the interior wall member and the exterior wall member within the gap to insulate the conditioned space.

None of the documents D1-D4 disclose the enclosure of claims 1 and 11 comprising: a wall including an interior wall member and an exterior wall member spaced apart from the interior wall member to define a gap; and an insulation member disposed between the interior and exterior wall members within the gap including a vacuum insulation panel and foam insulation.

Accordingly, the enclosure of claims 1 and 11 is not anticipated by the prior art, nor obvious to a person skilled in the art. Therefore, claims 1 and 11 meet the requirements of PCT Article 33(2)-(3).

Claims 2-10 are dependent on claim 1, and claims 12-25 are dependent on claim 11. Therefore, claims 2-10 and 12-25 also meet the requirements of PCT Article 33(2)-(3).

1.2 Claims 26-32

Independent claim 26 relates to a method of manufacturing a wall for an enclosure, the method comprising: providing an interior wall member and an exterior wall member spaced apart from the interior wall member to define a gap; positioning a first insulation member, a vacuum insulation, and a second insulation member within the gap between the interior and exterior wall members; and positioning the vacuum insulation panel between the first and second insulation members.

(Continued on next page.)

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.
Continuation of :

Previous page.

None of the documents D1-D4 disclose the method of claim 26 comprising: providing an interior wall member and an exterior wall member spaced apart from the interior wall member; and positioning a vacuum insulation panel between first and second insulation members.

Accordingly, the method of claim 26 is not anticipated by the prior art, nor obvious to a person skilled in the art. Therefore, claim 26 meets the requirements of PCT Article 33(2)-(3).

Claims 27-32 are dependent on claim 26. Therefore, claims 27-32 also meet the requirements of PCT Article 33(2)-(3).

1.3 Claims 33-37

Independent claim 33 relates to a method of manufacturing a wall for an enclosure, the method comprising: providing an interior wall member and an exterior wall member spaced apart from the interior wall member; positioning a wall support member between the interior and exterior wall members including openings; supporting the interior and exterior wall members using the wall support member; positioning an insulation member in the space between the interior and exterior wall members; and insulating the conditioned space using the insulation member.

None of the documents D1-D4 disclose the method of claim 33 comprising: providing interior and exterior wall members spaced apart from the interior wall member; and positioning an insulation member in the space between the interior and exterior wall members; and insulating the conditioned space using the insulation member.

Accordingly, the method of claim 33 is not anticipated by the prior art, nor obvious to a person skilled in the art. Therefore, claim 33 meets the requirements of PCT Article 33(2)-(3).

Claims 34-37 are dependent on claim 33. Therefore, claims 34-37 also meet the requirements of PCT Article 33(2)-(3).

2. Industrial Applicability

The present application relates to an enclosure and a method of manufacturing a wall for an enclosure, which can be used in the industry concerned. Therefore, claims 1-37 are considered to be industrially applicable and meet the requirement of PCT Article 33(4).

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
SMITH, DAVID B.

MICHAEL BEST & FRIEDRICH LLP 100 East Wisconsin Avenue Suite 3300 Milwaukee Wisconsin 53202-4108 USA

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing *(day/month/year)*	**03 JUNE 2008 (03.06.2008)**
Applicant's or agent's file reference 090402-9616	**FOR FURTHER ACTION** See paragraph 2 below

International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/US2007/078890	**19 SEPTEMBER 2007 (19.09.2007)**	

International Patent Classification (IPC) or both national classification and IPC

F16L 59/06(2006.01)i, F25D 3/00(2006.01)i

Applicant

THERMO KING CORPORATION et al

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.
For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/KR	Date of completion of this opinion	Authorized officer
Korean Intellectual Property Office Government Complex-Daejeon, 139 Seonsa-ro, Seo-gu, Daejeon 302-701, Republic of Korea Facsimile No. 82-42-472-7140	03 JUNE 2008 (03.06.2008)	KIM Sung Ho Telephone No.82-42-481-8549

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.
11/857,774	09/19/2007	Herman H. Viegas	090402-9616-00	1544

23409 7590 01/07/2011
MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

EXAMINER	
STEPHAN, BETH A	

ART UNIT	PAPER NUMBER
3633	

MAIL DATE	DELIVERY MODE
01/07/2011	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

JAN - 7 2011

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

MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE WI 53202

In re application of Viegas et al. Application No. 11/857,774 Filed: September 19, 2007 For: WALL CONSTRUCTION FOR INSULATED ENCLOSURE	:	**DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(a)**

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(a), filed November 17, 2010, to make the above-identified application special.

The request and petition are **DISMISSED as MOOT**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must disclose an eligible relationship to one or more PCT applications filed in the KIPO, JPO, EPO or USPTO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the PCT application(s) latest international work product (the written opinion or the IPER) 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 PCT application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of the latest international work product from the PCT application 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 PCT examiner in the international work product along with copies of documents except U.S. patents or U.S. patent application publications.

The request to participate in the PPH pilot is not grantable as per item (4) above in that examination of the U.S. application has already begun. A non-final rejection was mailed December 30, 2010.

No time period for reply to this decision is available since an Office action on the merits has already been mailed.

Any inquiry regarding this decision should be directed to Mikado Buiz, Quality Assurance Specialist, at (571) 272-6578.

/ Mikado Buiz /

Mikado Buiz,
Quality Assurance Specialist
Technology Center 3600

BM/BM: 01/06/11

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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A PATENT LAWYER, PLC
R WILLIAM GRAHAM
22 S ST CLAIR ST
DAYTON OH 45402

MAILED

SEP 09 2011

OFFICE OF PETITIONS

In re Application of :
Jonathan W. Reeves et al. :
Application No. 11/857,821 : DECISION ON PETITION
Filed: September 19, 2007 : TO WITHDRAW
Attorney Docket No. R-00017-003 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 6, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by R. William Graham on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

The correspondence address has been changed and is copied below.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Jonathan Reeves
8750 Northwest 18th Street
Coral Springs, FL 33071

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
11/857,821	09/19/2007	Jonathan W. Reeves	R-00017-003

CONFIRMATION NO. 1625

POWER OF ATTORNEY NOTICE

25179
A PATENT LAWYER, PLC
R WILLIAM GRAHAM
22 S ST CLAIR ST
DAYTON, OH 45402

OC000000049745316

Date Mailed: 09/09/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/06/2011.

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

/kainabinet/

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

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

MAILED

OCT 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Doo Sik Lee, et *al.*	:	
Application No. 11/857,860	:	NOTICE PURSUANT TO
Filed: September 19, 2007	:	37 CFR § 1.28(c)
Attorney Docket No. **314832US8**	:	

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-7353.

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

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CYPRESS SEMICONDUCTOR CORPORATION
198 CHAMPION COURT
SAN JOSE CA 95134-1709

MAILED
NOV 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Michael Sheets, et al.	:	
Application No. 11/857,947	:	DECISION GRANTING PETITION
Filed: September 19, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CD07116	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 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 October 11, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2824 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

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APR 26 2011

OFFICE OF PETITIONS

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

In re Reissue Application of :
Peter Newman et al. :
Reissue Application No. 11/858,091 :
Filed: September 19, 2007 : ON PETITION
Original Patent No. 6,948,003 :
Issue Date: September 20, 2005 :
Attorney Docket Number: **320528058US1** :

This is a decision on the petition filed March 7, 2011, styled as being filed under 37 CFR 1.47(b), which is properly treated as a petition under 37 CFR 1.183 seeking waiver of the rules and acceptance of a proposed reply to an Office action in the absence of a supplemental reissue declaration as the signature of both joint inventors cannot be obtained.

The petition is **DISMISSED**, but subject to favorable reconsideration if promptly renewed as indicated in more detail below.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. FAILURE TO RESPOND WILL RESULT IN THE ABANDONMENT OF THIS APPLICATION. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.183."

A Petition under 37 CFR 1.47(a) with respect to the unavailability of inventor Mr. Goyal was granted on February 17, 2010, for the present application. Subsequently, on September 7, 2010, a final Office action was mailed in the instant application noting that the reissue declaration signed by Peter Newman was defective because the error which is relied upon to support the reissue application is not an error upon which a reissue can be based. See 37 CFR 1.175(a)(1) and MPEP § 1414.

In reply to the final Office action, the instant petition and fee, and a three month extension of time were filed on March 7, 2011.

The petition establishes that notwithstanding a diligent effort, inventor Newman's signature could be obtained for the instant supplemental declaration. Further, the unavailability of inventor Mr. Goyal was established via the prior petition under 37 CFR 1.47(a). [1] Thus, justice would be served by waiver of the rules to permit the assignee to sign the supplemental reissue declaration. However, the Office is only willing to waive the signature requirement that the required supplemental declaration be signed by one of the inventors; the Office is not willing to waive the requirement for a supplemental reissue declaration. That is, a supplemental reissue declaration under 37 CFR 1.175(b)(1)was specifically required by the Office action of September 7, 2010, and this cannot be waived. However, while someone must execute the forthcoming required supplemental reissue declaration, it need not be executed by either or both of the named inventors. That is, in a manner analogous to that of a petition under 37 CFR 1.47(b), where no named inventor will sign the necessary declaration, a supplemental declaration for this application may be signed by an officer of the assignee (with any necessary averments being stated as based on information and belief), or by a person empowered *ad hoc* by the assignee, who makes the necessary statements and states that the person is authorized to act on behalf of the assignee. **In this instance, it is strongly urged the the Office's for PTO/SB/53 be completed by the appropriate person to provide the required supplemental reissue declaration.**

In this instance however, a statement under 3.73(b) statement is signed by Pat Mathews, as an authorized person for assignee Digital Asset Enterprises, L.L.C., however Pat Mathews has not signed a supplemental reissue declaration on behalf of the assignee.

Any forthcoming renewed petition 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

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

[1] As pointed out above petition under 37 CFR 1.47(a), filed June 16, 2008, was found to have shown that non-signing inventor, Pawan Goyal, could not be found or reached after diligent effort, or refused to join in the reissue application and was granted in a decision mailed February 17, 2010.

Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web. [2]

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kenneth M. Schor/

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

4-13-11
Kenpet8/reissue/...

[2] https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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JUL 01 2011

OFFICE OF PETITIONS

In re Reissue Application of
Peter Newman et al.
Reissue Application No. 11/858,091
Filed: September 19, 2007
Original Patent No. 6,948,003
Issue Date: September 20, 2005
Attorney Docket Number: **320528058US1**

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.183 filed June 27, 2011 requesting waiver of 37 CFR §§ 1.67 and 1.172 which would require that the supplemental reissue declaration of July 15, 2010 have been executed by the inventors.

The petition is **DISMISSED as involving moot issues**.

A petition under 37 CFR 1.47(a) with respect to the unavailability of inventor Mr. Goyal was granted on February 17, 2010, for the present application. Subsequently, on September 7, 2010, a final Office action was mailed in the instant application noting that the reissue declaration signed by Peter Newman was defective because the error which is relied upon to support the reissue application is not an error upon which a reissue can be based. See 37 CFR 1.175(a)(1) and MPEP § 1414.

In reply to the final Office action, a petition and fee, and a three month extension of time were filed on March 7, 2011. The petition established that notwithstanding a diligent effort, inventor Newman's signature could not be obtained for the instant supplemental declaration. Further, the unavailability of inventor Mr. Goyal was established via the prior petition under 37 CFR 1.47(a).[1] Thus, it was established that justice would be served by waiver of the rules to permit the assignee to sign the supplemental reissue declaration.

However, the petition was dismissed in a decision mailed April 26, 2011 because while the Office is only willing to waive the signature requirement that the required supplemental

[1]As pointed out above, the petition under 37 CFR 1.47(a), filed June 16, 2008, was found to have shown that non-signing inventor, Pawan Goyal, could not be found or reached after diligent effort, or refused to join in the reissue application and was granted in a decision mailed February 17, 2010.

declaration be signed by one of the inventors; the Office is not willing to waive the requirement for a supplemental reissue declaration. That is, a supplemental reissue declaration under 37 CFR 1.175(b)(1)was specifically required by the Office action of September 7, 2010, and this cannot be waived. While someone must execute the forthcoming required supplemental reissue declaration, it need not be executed by either or both of the named inventors. That is, in a manner analogous to that of a petition under 37 CFR 1.47(b), where no named inventor will sign the necessary declaration, a supplemental declaration for this application may be signed by an officer of the assignee (with any necessary averments being stated as based on information and belief), or by a person empowered *ad hoc* by the assignee, who makes the necessary statements and states that the person is authorized to act on behalf of the assignee.

While the petition filed March 7, 2011 requested suspension or waiver of the "regulations pertaining to the filing of a Supplemental Declaration under 37 C.F.R. § 1.175" that require a supplemental reissue declaration to be signed by the inventors, comes now petitioner on June 27, 2011 with a supplemental reissue declaration executed by Newman.

In view of the joinder of the previously non-signing joint inventor, Peter Newman, and in view of status having been granted under 37 CFR 1.47 as it relates to joint inventor Pawan Gowal, further consideration under 37 CFR 1.183 is unnecessary.

The petition filed June 27, 2011 is **DISMISSED** as involving moot issues.

Jurisdiction over the application is forwarded to Technology Center 2455 for further examination.

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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DR. BANGER SHIA
PATENT OFFICE OF BANG SHIN
102 LINDENCREST CT.
SUGAR LAND TX 77479-5201

MAILED

AUG 29 2011

OFFICE OF PETITIONS

In re Application of	:	
Jin-Ho Bae	:	
Application No. 11/858,207	:	DECISION ON PETITION
Filed: September 20, 2007	:	
Attorney Docket No. SW-971440(SW-88)	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Ex Parte Quayle Office action mailed February 10, 2009, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3636 for appropriate action by the Examiner in the normal course of business.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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GAZDZINSKI & ASSOCIATES, PC
16644 WEST BERNARDO DRIVE
SUITE 201
SAN DIEGO CA 92127

MAILED

FEB 06 2012

OFFICE OF PETITIONS

In re	:	
Bates et al.	:	
Reissue Application No. 11/858,309	:	
Filed: September 20, 2007	:	DECISION ON PETITION
Atty Docket No. 076838-001603/RE	:	UNDER 37 CFR 1.183
Title: WIRELESS COMMUNICATION SYSTEMS AND METHODS	:	

This reissue application is before the Office of Patent Legal Administration, for consideration of the "REISSUE APPLICATION DECLARATION FILED PURSUANT TO 37 C.F.R. §1.47," filed September 29, 2011, which is properly treated as a petition under 37 CFR 1.183[1].

In effect, Petitioner requests waiver of the rule (presumably § 1.172) that requires that the inventor sign any supplemental declaration in a broadening reissue application.

The petition is **DISMISSED AS MOOT**.

No fee is required and none has been charged.

---

[1] Once an application has received a fully executed oath or declaration that has been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

BACKGROUND

The present application was filed on September 24, 2003, by the assignee as a reissue continuation application of application No. 10/893,101 (Issued November 9, 2010), which is an application for reissue of patent No. 6,420,961 (Issued July 16, 2002).

By non-final Office action mailed March 31, 2011, the examiner advised applicant that the reissue declaration filed with the application was defective, pointing out that: A copy of the reissue declaration from the parent is not sufficient. The reissue declaration is improper, because it does not identify an error being corrected by the reissue continuation application. A new reissue declaration with a new error being corrected is required.

In response, applicant filed the instant petition with a new reissue declaration executed by inventor Bates on behalf of himself and on behalf of non-signing inventor Hahn. The petition also includes a copy of the decision in parent reissue application No. 10/893,101, granting waiver of the requirement that inventor Hahn execute the supplemental reissue declaration.

DECISION

35 U.S.C. 251, which is directed to reissue, does not address the signature requirements of a declaration in reissue. 37 CFR 1.172 requires that a reissue declaration be made (and signed) by the inventors, except as otherwise provided (§§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged. 37 CFR 1.175(b)(1), requires that:

> For any error corrected, which is not covered by the oath or declaration submitted under paragraph (a) of this section, applicant must submit a supplemental oath or declaration stating that every such error arose without any deceptive intention on the part of the applicant.

37 CFR 1.175(b)(1), taken in conjunction with § 1.172, requires a supplemental declaration to be signed by the inventors. This is because all oaths or declarations necessary to fulfill the rule requirements in a reissue application are taken together collectively as a single oath or declaration. Thus, each oath

and/or declaration must bear the appropriate signature of the inventors.

In this instance, waiver of the requirement that inventor Hahn execute the supplemental reissue declaration has been granted in parent reissue application No. 10/893,101. This waiver carries over to the present continuation reissue application. Thus, there is no reason for further waiver.

CONCLUSION

The present petition to waive 37 CFR 1.172 is dismissed as moot.

The supplemental reissue declaration is accepted without the signature of inventor Hahn.

A notice of allowance was issued in this reissue application on December 2, 2011. The application is being forwarded to the Office of Data Management to await applicant's response to the notice of allowance (and notice of allowability). This decision does not toll the period for reply to the Notices mailed December 2, 2011.

Please direct any questions related to this decision to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

/Kenneth M. Schor/

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

2/1/12

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/858,359	09/20/2007	Scott D. McDonough	65758/S61	2618

23363 7590 08/01/2011
CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

EXAMINER	
SAYRE, JAMES G	
ART UNIT	PAPER NUMBER
3674	
MAIL DATE	DELIVERY MODE
08/01/2011	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.

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

In re Application of
Scott D. McDonough et al

Serial No.: 11/858,359

Filed: September 20, 2007

For: Rock Bit and Inserts With a Chisel Crest Having a Broadened Region

DECISION ON PETITION TO EXPUNGE FROM RECORD UNDER 37 CFR 1.59

This decision is in response to the petition filed on January 25, 2010 to expunge from record of a Supplemental Information Disclosure Statement, the Form PTO-1449 submitted on January 25, 2010, Exhibits 1-3 submitted on January 25, 2010 and Appendix A (Declaration by Mr. Scott D. McDonough) filed in the instant application on January 25, 2010.

The petition is **DENIED.**

A petition under 37 CFR 1.59(b) must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;
(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;
(C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
(E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b)

MPEP 724.05 (I) states that "A petition under 37 CFR 1.59(b) to expunge information submitted under MPEP §724.02, or that should have been submitted under MPEP § 724.02 (as where proprietary information is submitted in an information disclosure statement but inadvertently not submitted in a sealed envelope as discussed in MPEP § 724.02) will be entertained only if the petition fee (37 CFR 1.17(g)) is filed and the information has been found not to be material to patentability. If the information is found to be material to patentability, any petition to expunge the information will be denied."

"Materiality" is defined as any information which the examiner considers as being important to a determination of patentability of the claims.

The information that petitioners request to expunge is considered to be material to the determination of patentability because the Exhibit 2 was used in combination with the Portwood reference in the 103(a) rejection of claims 1-2, 6, 11-12 and 18 in the final Office action mailed on January 4, 2011. The Supplemental Information Disclosure Statement and Exhibits 1-3 were considered in the March 24, 2011 advisory action that resulted in the withdrawal of the rejection of claims 1, 2, 6, 11, 12 and 18. Accordingly, the petition to expunge the information filed on January 25, 2010 is denied pursuant to MPEP 724. 05 (I) cited above.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Thomas A. Beach at 571-272-6988.

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

tab/lm: 07/25/2011

LM

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APR 21 2011

OFFICE OF PETITIONS

ZILKA-KOTAB, PC
PO BOX 721120
SAN JOSE, CA 95172-1120

In re Application of
Tianying Fu, et al.
Application No. 11/858,378
Filed: September 18, 2007
Attorney Docket No. NAI1P604/07.073.01

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 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 March 28, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

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United States Patent and Trademark Office
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
400 INTERSTATE NORTH PARKWAY SE
SUITE 1500
ATLANTA GA 30339

MAILED
SEP 12 2011
OFFICE OF PETITIONS

In re Application of :
Hsiao-Fung Chou :
Application No. 11/858,382 : DECISION ACCORDING STATUS
Filed: September 20, 2007 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 252210-3000 :

This decision is in response to the petition filed September 20, 2007 which is being treated under 37 CFR 1.47(b).[1]

The petition is **GRANTED**,

The above-identified application was filed on September 20, 2007 naming Hsiao-Fung Chou as the sole inventor, with a petition under 37 CFR 1.47 arguing that after presentment with the application, the inventor expressly refused to execute the oath or declaration and by his actions to cooperate with the filing of the instant application.

The petition was accompanied by a statement that a copy of the application and the formal papers (e.g., combined declaration and power of attorney), were sent via certified mail and delivered to the non-signing sole inventor, and that he verbally refused to execute the declaration. The petition was also accompanied by the petition fee, the last known address for the non-signing inventor and a declaration executed by Steven HUNG, a manager within the legal and intellectual property departments of VIA,

[1] A grantable petition under 37 CFR 1.47(b) 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;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest, and
(6) proof of irreparable damage.

Technologies, Inc., in the absence of a signature by the sole inventor, a copy of the Confidentiality Contract previously executed by the sole inventor to show proprietary interest and a statement that the application is filed to preserve the applicants rights in the application and to prevent irreparable harm.

All requirements under 37 CFR 1.47(b) have therefore been met.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

Mail Date: 08/04/2010

Applicant	: Jong-oh KIM	: DECISION ON REQUEST FOR
Patent Number	: 7653338	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/858,464	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/20/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **161** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KENNAMETAL INC.
Intellectual Property Department
P.O. BOX 231
1600 TECHNOLOGY WAY
LATROBE PA 15650

MAILED

DEC 21 2010

OFFICE OF PETITIONS

In re Application of :
Dirk Kammermeier et al. :
Application No. 11/858,525 : DECISION ON PETITION
Filed: September 20, 2007 :
Attorney Docket No. KH-2234US(NHL-KEH-46US) :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 14, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed July 14, 2010. Accordingly, the date of abandonment of this application is October 15, 2010. A Notice of Abandonment was mailed on November 1, 2010.

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

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

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

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Hundal et al.	:	DECISION ON PETITION
Application No. 11/858,612	:	TO WITHDRAW
Filed: September 20, 2007	:	FROM RECORD
Attorney Docket No. VTX0024-US-DIV.	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 28, 2010.

The request is **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 recognized the current recorded assignee concerning the above-identified application or the first listed inventor. VTech Communications Limited is not the current assignee of the above-identified application. As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, the above-identified application is scheduled to issue as Patent No. 7,792,073 on September 7, 2010.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCI-LAW STRATEGIES, PC
P.O. BOX 1729
SOLANA BEACH CA 92075

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Application of :
Robert B. Cody et al :
Application No. 11/858,682 : DECISION ON PETITION
Filed: September 20, 2007 :
Attorney Docket No. JEOL-01000US0 :

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

The petition is **GRANTED**.

The 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 March 3, 2010 (an advisory action was mailed on May 3, 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 2881 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

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SCI-LAW STRATEGIES, PC
P.O. BOX 1729
SOLANA BEACH CA 92075

MAILED

JUL 21 2011

OFFICE OF PETITIONS

In re Application of :
Cody et al. :
Application No. 11/858,682 : PETITION DECISION
Filed: September 20, 2007 :
Attorney Docket No. JEOL-01000US0 :

This is a decision on the petition under 37 CFR 1.47(a), filed March 23, 2011, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR 1.67 and 1.63 where they require that a supplemental declaration be executed by the named inventors.

The instant petition requires:

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims and drawings),
(2) a proper oath or declaration executed by the available joint inventor(s),
(3) the fee of $400 as specified in 37 CFR 1.17(f), and
(4) the last known address of the omitted inventor(s).

Since the present petition complies with all of the above requirements, the petition under 37 CFR 1.183 is **GRANTED**.

Petitioner has submitted $200.00 towards payment of the requisite $400.00 petition fee. Accordingly, the additional $200.00 will be charged to petitioner's deposit account as authorized.

Telephone inquiries concerning this matter should be directed to Petitions Examiner Liana Walsh at (571) 272-3206.

The matter is being referred to Technology Center AU 2881 for examination on the merits.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

MAILED
JAN 20 2011
OFFICE OF PETITIONS

In re Application of
William R. George, et al.
Application No.: 11/858,684
Filed: September 20, 2007
Attorney Docket No.: 130.057US1

ON PETITION

This is a decision on the petition, filed January 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 December 21, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2475 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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SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

MAILED
JAN 10 2011
OFFICE OF PETITIONS

In re Application of
Alexander Zinell et al.
Application No. 11/858,698
Filed: September 20, 2007
Attorney Docket No: **21546**

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed September 22, 2010, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on June 2, 2010, for failure to file a timely response to the Final Office Action mailed March 1, 2010, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed September 21, 2010. Petitioner asserts that the Final Office Action was never received.

The file record discloses that the Office Action was mailed to the address of record which is the same address used on all correspondences from the USPTO including the Notice of Abandonment. Petitioner has provided a copy of the docket to show that the Office Action mailed March 1, 2010 was not received. Petitioner also explains that after searching the file and docket records, where receipt of the office action would have been indicated if it had been received, it was concluded that no correspondence was received for this matter from the USPTO.

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the Final Office Action mailed March 1, 2010, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Office Action.

In view of the facts set forth in the petition, it is concluded that the Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 3641 for a re-mailing of the Final

Office Action and for a restarting of the period for response.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : April 29,2011

In re Application of :

Bhagwati Kabra

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11858781

Filed : 20-Sep-2007

Attorney Docket No : 3205US

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed April 29,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 1613 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	11858781
Filing Date	20-Sep-2007
First Named Inventor	Bhagwati Kabra
Art Unit	1613
Examiner Name	ERNST ARNOLD
Attorney Docket Number	3205US
Title	SELF PRESERVED AQUEOUS PHARMACEUTICAL COMPOSITIONS

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	/Scott A. Chapple, Reg. #46,287/
Name	Scott A. Chapple
Registration Number	46287

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JUN 21 2011

OFFICE OF PETITIONS

DINSMORE & SHOHL LLP
FIFTH THIRD CENTER
ONE SOUTH MAIN STREET
SUITE 1300
DAYTON OH 45402

In re Patent No. 7,949,473
Jurgen Rauh
Application No. 11/858,954
Issue Date: May 24, 2011
Filed: September 21, 2007
Attorney Docket No. ROA 0044
PA/23984US

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

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)", filed May 18, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from six hundred forty-five (645) days to seven hundred two (702) days.

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

On May 24, 2011, the instant application matured into U.S. Patent No. 7,949,473 with a patent term adjustment of six hundred forty-five (645) days. The Office determined a patent term adjustment of 645 days based upon 488 days of Office delay pursuant to 37 CFR 1.703(a)(1) and 188 days pursuant to 37 CFR 1.703(b), reduced by 31 days of Applicant delay pursuant to 37 CFR 1.704(b).

Patentee is correct that the proper amount of days over 36 months from the filing date of the application until the issue date was not included in the "B" delay period. The over three year period began on September 22, 2010 and ended on May 24, 2011 (the patent issue date), and is 245 days. See 35 U.S.C. 154(b)(1)(B)(i). Therefore, the "B" delay period is 245 days, not 188 days as originally calculated.

In view thereof, the correct number of days of patent term adjustment is **seven hundred two (702)** days (488 days of "A" delay and 245 days of "B" delay, reduced by 31 days of Applicant delay).

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 **seven hundred two (702) days.**

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo, at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,949,473 B2

DATED : **May 24, 2011**

INVENTOR(S) : Jurgen Rauh

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 645 days.

Delete the phrase "by 645 days" and insert – by 702 days--

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MAILED
SEP 19 2011
OFFICE OF PETITIONS

Dillon & Yudell, LLP
Suite 2110
8911 N. Capital of Texas Hwy
Austin TX 78759

In re Application of :
Catherman, et al. :
Application No. 11/858,971 : DECISION ON PETITION
Filed: September 21, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. RPS920030206US1 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 14, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT.**

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).

A review of the record reveals that the claim was presented prior to the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). The claim was filed in the form of the preliminary amendment on September 21, 2007. Accordingly, the claim should have been entered and reflected on the first filing receipt. Therefore, as the claim was timely presented, the petition under 37 CFR 1.78 is moot. A refund of the surcharge submitted herewith will issue in due course. Further, please take note of the corrected filing receipt attached hereto.

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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
11/858,971	09/21/2007	2434	1000	RPS920030206US1	2	1

CONFIRMATION NO. 3726

CORRECTED FILING RECEIPT

Dillon & Yudell, LLP
Suite 2110
8911 N. Capital of Texas Hwy
Austin, TX 78759

OC000000049931503

Date Mailed: 09/20/2011

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)

Ryan Charles Catherman, Raleigh, NC;
David Carroll Challener, Raleigh, NC;
James Patrick Hoff, Ralelgh, NC;

Power of Attorney: The patent practitioners associated with Customer Number 25299

Domestic Priority data as claimed by applicant

This application is a DIV of 10/750,594 12/31/2003 PAT 7,644,278

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: 10/01/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/858,971**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Securely Creating an Endorsement Certificate in an Insecure Environment

Preliminary Class

713

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 : 6/15/11

TO SPE OF : ART UNIT 1762

SUBJECT : Request for Certificate of Correction for Appl. No.: 11859015 Patent No.: 7932324

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 571-270-9990

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.

SPE: Q. Wu Art Unit: 1762

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : July 19, 2011

TO SPE OF : ART UNIT 1716

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/859,080 Patent No.:7921803

CofC mailroom date: 7/6/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: Should the changes be made?

RoChaun Hardwick
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

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

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

Comments: Please replace Figures 1 and 2 in the patent with the Figures 1 and 2 of the original drawings submitted on 9/21/2007.

/Parviz Hassanzadeh/ 1716

SPE **Art Unit**

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	11/859,168	BRENNAN ET AL.	
	Examiner	Art Unit	
	FRANK LU	1634	

ISSUE CLASSIFICATION

ORIGINAL						CROSS REFERENCE(S)							
CLASS				SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)							
435				6	435	91.1							
INTERNATIONAL CLASSIFICATION					536	23.1	24.3	24.33					
C	1	2	Q	1/68									
C	1	2	P	19/34									
C	0	7	H	21/02									
C	0	7	H	21/04									
				/									

(Assistant Examiner) (Date)	/Frank W Lu/ 7/15/2011 (Primary Examiner) (Date)	Total Claims Allowed: 9	
(Legal Instruments Examiner) (Date)		O.G. Print Claim(s): 1	O.G. Print Fig.: None

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
1	1		31		61		91		121		151		181
	2		32		62		92		122		152		182
	3		33		63		93		123		153		183
	4		34		64		94		124		154		184
	5		35		65		95		125		155		185
2	6		36		66		96		126		156		186
	7		37		67		97		127		157		187
3	8		38		68		98		128		158		188
4	9		39		69		99		129		159		189
	10		40		70		100		130		160		190
	11		41		71		101		131		161		191
	12		42		72		102		132		162		192
5	13		43		73		103		133		163		193
	14		44		74		104		134		164		194
	15		45		75		105		135		165		195
	16		46		76		106		136		166		196
6	17		47		77		107		137		167		197
7	18		48		78		108		138		168		198
8	19		49		79		109		139		169		199
	20		50		80		110		140		170		200
9	21		51		81		111		141		171		201
	22		52		82		112		142		172		202
	23		53		83		113		143		173		203
	24		54		84		114		144		174		204
	25		55		85		115		145		175		205
	26		56		86		116		146		176		206
	27		57		87		117		147		177		207
	28		58		88		118		148		178		208
	29		59		89		119		149		179		209
	30		60		90		120		150		180		210

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/859,300	09/21/2007	David A. Arthur	P000462-FCA-CHE	4401

65798 7590 11/05/2010

MILLER IP GROUP, PLC
GENERAL MOTORS CORPORATION
42690 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS, MI 48304

EXAMINER	
ALEJANDRO, RAYMOND	

ART UNIT	PAPER NUMBER
1727	

MAIL DATE	DELIVERY MODE
11/05/2010	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
www.uspto.gov

NOV 05 2010

wk

Mailed :

In re Application of	:	DECISION ON
Arthur et al.	:	PETITION
Serial No. 11/859,300	:	
Filed: September 21, 2007	:	

For: Method For Fast And Reliable Fuel Cell System Start-Ups

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 filed on August 10, 2010.

The Examiner required a restriction between patentably distinct species of Species I, claims 1-9, 11-3 and 23, drawn to a method for starting a fuel cell system not including split stacks, and Species II, claims 10 and 14-22, drawn to a method for a start-up sequence for a fuel cell system including first and second split stacks. Applicant elected species I.

Every requirement to restrict has two aspects: (A) the reasons (as distinguished from the mere statement of conclusion) why each invention *as claimed* is either independent or distinct from the other(s); and (B) the reasons why there would be a serious burden on the examiner if restriction is not required. Where there is no disclosure of a relationship between species (see MPEP § 806.04(b)), they are independent inventions. A requirement for restriction is permissible if there is a patentable difference between the species as claimed and there would be a serious burden on the examiner if restriction is not required. See MPEP § 803 and § 808.02.

Claims to different species are mutually exclusive if one claim recites limitations disclosed for a first species but not a second, while a second claim recites limitations disclosed only for the second species and not the first. This may also be expressed by saying that to require restriction between claims limited to species; the claims must not overlap in scope.

Applicant's claims 1 and 23 simply claim a fuel cell system with a fuel cell stack. There is no limitation as to whether the fuel cell system includes a fuel cell stack that is a split stack or is not a split stack. The Examiner has not provided a reason as to why there are as claimed two mutually exclusive species.

The examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required. Thus the examiner must show by appropriate explanation one of the following:

(A) **Separate classification thereof**: This shows that each invention has attained recognition in the art as a separate subject for inventive effort, and also a separate field of search. Patents need not be cited to show separate classification.

(B) **A separate status in the art when they are classifiable together**: Even though they are classified together, each invention can be shown to have formed a separate subject for inventive effort when the examiner can show recognition of separate inventive effort by inventors. Separate status in the art may be shown by citing patents which are evidence of such separate status, and also of a separate field of search.

(C) **A different field of search**: Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., searching different classes/subclasses or electronic resources, or employing different search queries, a different field of search is shown, even though the two are classified together.

The Examiner did not show why there would be a serious burden if restriction is not required.

DECISION

The petition is **GRANTED.**

The Examiner is directed to withdraw the restriction requirement.

/W. GARY JONES/
Director, Technology Center 1700
Chemical and Materials Engineering

John A. Miller
MILLER IP GROUP, PLC
GENERAL MOTORS CORPORATION
42690 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS MI 48304

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/859,402	09/21/2007	Lili YAO	Q103820	4604

7590 11/19/2010

Docket Clerk/HTCL
P.O. Drawer 800889
Dallas, TX 75380

EXAMINER	
INTAVONG, JIRAPON	
ART UNIT	PAPER NUMBER
2614	
NOTIFICATION DATE	DELIVERY MODE
11/19/2010	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.

Patent Publication Branch
Office of Data Management

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/22/10

TO SPE OF : ART UNIT 3774

SUBJECT : Request for Certificate of Correction for Appl. No.: 11859448 Patent No.: 7740662

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: _____

CORRINE McDERMOTT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE

3738
Art Unit

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United States Patent and Trademark Office
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LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE WA 99201

MAILED

NOV 23 2010

OFFICE OF PETITIONS

In re Application of :
Zhang, Chen, Chen, Zeng, and Wang :
Application No.: 11/859,461 : ON PETITION
Filing Date: September 21, 2007 :
Attorney Docket No. MS1-3470US :

This is a decision on the "Petition under 37 CFR 1.47(a)", filed August 30, 2010, which will be treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131.

The petition is **dismissed**.

The record reflects that the joint inventors named in subject application executed the declaration required by 37 CFR 1.63, and that the executed declaration was filed on September 21, 2007. Petitioner now files the instant petition because inventors Wang and Jilin Chen cannot be located sign the declaration under 37 CFR 1.131. Petitioner requests that the declaration under 37 CFR 1.131 be accepted without their signatures.

It is noted that the provisions of 37 CFR 1.47 only apply to the execution of the original oath or declaration under 37 CFR 1.63. A petition under 37 CFR 1.47 is not appropriate in this case because the joint inventors executed the original declaration. Where, as in this instance, petitioner is not able to obtain the signature of one, or all of the joint inventors, after the execution of the declaration under 37 CFR 1.63, relief can be granted, pursuant to 37 CFR 1.183, by the waiver or suspension of the requirements of 37 CFR 1.131 as to the signature requirements for the joint inventors.

Accordingly, the instant petition will be treated as petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.131 so as to accept the declaration of prior invention, without the signatures of inventors Wang and Chen. The requirements for a successful petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131 as to the signature requirements as to the joint inventors are similar to that of a petition under 37 CFR 1.47. Relative to the circumstances presented by the instant petition, petitioner must establish by statements from persons having first-hand knowledge and documentary evidence, that inventors Wang and Chen could not be reached after a diligent effort. Section 409.03(d) of the *Manual of Patent Examining Procedure* provides guidance as to what will suffice as sufficient proof that the non-signing inventor cannot be reached as is alleged in the instant petition. This section states, in pertinent part, as follows:

> [w]here inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as Internet searches, certified mail, return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. **The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts.**

Accordingly, the renewed petition must be accompanied by evidence that a diligent effort was made to locate inventors Wang and Chen. Petitioner may consult Section 409.03 of the Manual of Patent Examining Procedure for guidance on what kind of statements and evidence should accompany the renewed petition

The fee for the instant petition is $400.00 and must accompany any renewed petition filed.

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

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 02 2011

OFFICE OF PETITIONS

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

In re Application of :
Zhang, Chen, Chen, Zeng, and Wang :
Application No.: 11/859,461 : ON PETITION
Filing Date: September 21, 2007 :
Attorney Docket No. MS1-3470US :

This is a decision on the renewed petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131, filed April 18, 2011.

The petition is **granted**.

Petitioner files the under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131 because two of the joint inventors cannot be located, or are constructively refusing to sign the declaration under 37 CFR 1.131. Petitioner requests that the declaration under 37 CFR 1.131 be accepted without the signature of inventors Wang and Chen.

Relief can be granted, pursuant to 37 CFR 1.183, by the waiver or suspension of the requirements of 37 CFR 1.131 as to inventors Wang and Chen. 37 CFR 1.183 permits, in an extraordinary situation, waiver of a rule which is not a requirement of the statute, where justice requires such waiver, and applicant has requested a waiver of the requirement that the 37 CFR 1.131(b)(1) declaration be signed by all the joint inventors.

The instant petition is accompanied by an appropriate showing that inventors Wang and Chen have either constructively refused, or cannot be located, to execute the declaration under 37 CFR 1.131. Accordingly, the declarations of September 9, 2010, signed by remaining joint inventors, will be accepted as though it was signed by all the joint inventors as required by 37 CFR 1.131.

The fee for the petition under 37 CFR 1.183 is $400.00 as per 37 CFR 1.183 and 1.17(f). Deposit account 12-0769 will be charged an additional $400.00, accordingly.

The application file will be forwarded to Technology Center 2100, GAU 2164 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mark H. Krietzman
c/o The Eclipse Group
Suite 150
1920 Main Street
Irvine CA 92614

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Ned Allen Godshall et al.	:	DECISION ON PETITION
Application No. 11/859,731	:	TO WITHDRAW
Filed: September 21, 2007	:	FROM RECORD
Attorney Docket No. **37925-10201**	:	

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

The request is **NOT APPROVED**.

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

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

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

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

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

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

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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TUE NGUYEN
496 OLIVE AVE
FREMONT CA 94539

MAILED

DEC 02 2010

OFFICE OF PETITIONS

In re Application of

Tabrizi, et al.

Application No. 11/859,755

Filed: September 22, 2007

Attorney Docket No. DMS023

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed September 16, 2010.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **dismissed as moot**.

This application was held abandoned on April 29, 2010, after it was believed that no response was received to the non-final Office action mailed January 28, 2010. The notice allowed a shortened statutory period for reply of three (3) month from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on August 16, 2010, indicating that a reply to the non-final Office action was not received.

The instant petition was filed on September 16, 2010. A review of the record reveals that by a communication mailed September 7, 2010, Technology Center 3600 withdrew the holding of abandonment citing that imposition of the holding of abandonment was premature. Based on the aforementioned, there is no remedy that can be accorded the application by the instant petition to withdraw the holding of the abandonment. The petition is dismissed as moot, accordingly.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded Technology Center 3600, GAU 3652 for further processing including lifting of the abandonment status on the application and consideration of the amendment filed May 5, 2010.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
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
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MEREDITH & KEYHANI, PLLC
330 MADISON AVE.
6TH FLOOR
NEW YORK NY 10017

MAILED

MAR 25 2011

OFFICE OF PETITIONS

In re Application of :
Emanuel Melman :
Application No. 11/859,781 : DECISION ON PETITION
Filed: September 23, 2007 TO WITHDRAW FROM RECORD
Attorney Docket No. 225-007 :
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 14, 2011.

The request is **APPROVED**.

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

The request was signed by Fariba Sirjani on behalf of himself. Accordingly, Fariba Sirjani associated with the above-identified application has been withdrawn as attorney of record in the above-identified application.

The correspondence address of record remains unchanged.

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

Currently, there is no outstanding Office action that requires a reply.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Fariba Sirjani
925 Delaware Avenue, Apt 9C
Buffalo, NY 14209

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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO IL 60604

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AUG 22 2011

OFFICE OF PETITIONS

In re Application of :
Noseong Park et al. :
Application No. 11/859,902 : DECISION ON PETITION
Filed: September 24, 2007 :
Attorney Docket No. **CU-6068 WWP** :

This is a decision on the petition, filed June 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**.

This application was held abandoned for failure to reply to the non-final Office action mailed September 17, 2010, which set a three (3) month statutory period for reply. A Notice of abandonment was mailed April 19, 2011.

Petitioner asserts that the Office action dated September 17, 2010, was not received.

A review of the written record indicates no irregularity in the mailing of the Office action of September 17, 2010. However, the file record for the application indicates that the Office action was returned to USPTO as undelivered. In this regard, petitioner has made a sufficient showing that the Notice mailed on September 17, 2010, was not received. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

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

This application is being referred to the Technology Center Art Unit 2475 for **re-mailing** the non-final Office action of September 17, 2010, with the period for reply running from the mailing date thereof.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9-17-11 Paper No.: _____

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/859,946 Patent No.: 7912662

CofC mailroom date: 9-1-11

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

FOR IFW FILES: Check drawing

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

Connie Young
Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: All changes approved.

/Andrew Schechter/ 2857
SPE 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	11860015
Filing Date	24-Sep-2007
First Named Inventor	Hironori UCHIKAWA
Art Unit	2112
Examiner Name	ESAW ABRAHAM
Attorney Docket Number	315277US2
Title	NON-VOLATILE SEMICONDUCTOR MEMORY DEVICE

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

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

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

Petition Fee

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

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

☐ Applicant(s) status remains as SMALL ENTITY.

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

Reason for withdrawal from issue

◯ One or more claims are unpatentable ◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees) ◯ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).
RCE request,submission, and fee. ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on ☒ Are attached.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ◯ A sole inventor ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors ◯ A joint inventor; all of whom are signing this e-petition ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/surinder sachar/
Name	Surinder Sachar
Registration Number	34423

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

Decision Date : October 31,2011

In re Application of :

Hironori UCHIKAWA

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11860015

Filed : 24-Sep-2007

Attorney Docket No : 315277US2

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed October 31,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid 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 2112 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/20/2011

TO SPE OF : ART UNIT 3761

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/860026 Patent No.: 7998101 B2

CofC mailroom date: 10/19/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

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

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

Comments: _____

/Tatyana Zalukaeva/ — **SPE**

3761 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

MAILED

MAY 3 1 2011

OFFICE OF PETITIONS

In re Application of :
Emily E. Rusk et al. :
Application No. 11/860,075 : DECISION ON PETITION
Filed: September 24, 2007 : TO WITHDRAW
Attorney Docket No. 792-34 : 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 12, 2011.

The request is **NOT APPROVED.**

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

Accordingly, the request to withdraw from record cannot be approved because no forwarding address was provided. The request to change the correspondence address should be that of the: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has intervened in this application then a Statement under 37 CFR 3.73(b), or a copy of the actual assignment must be submitted with a renewed request. The most current address of the inventor/assignee is needed.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Mikhail SVOISKI	:	
Application No. 11/860,110	:	DECISION ON PETITION
Filed: September 24, 2007	:	
Attorney Docket No. 5646-179	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 05, 2010 as required by the Notice of Allowance and Fee(s) Due, mailed August 05, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on November 06, 2010.

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

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

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 2 7 2010

OFFICE OF PETITIONS

ROBERT E MALM
16624 PEQUENO PLACE
PACIFIC PALISADES CA 90272

In re Application of	:	
Robert E. Malm	:	
Application No. 11/860,112	:	DECISION ON PETITION
Filed: September 24, 2007	:	
Attorney Docket No. P598	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 27, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 27, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 28, 2010. The Notice of Abandonment was mailed June 15, 2010.

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

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application.

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

This application is being referred to Technology Center AU 3729 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/860,112	09/24/2007	Robert E. Malm	P598	6025

23586 7590 06/03/2011

ROBERT E MALM
16624 PEQUENO PLACE
PACIFIC PALISADES, CA 90272

EXAMINER	
CARLEY, JEFFREY T.	
ART UNIT	**PAPER NUMBER**
3729	
MAIL DATE	**DELIVERY MODE**
06/03/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ROBERT E MALM
16624 PEQUENO PLACE
PACIFIC PALISADES CA 90272

In re Application of:
BURT, LIONEL J.
Serial No.: 11/860,112
Filed: Sep. 24, 2007
Docket: P598
Title: MODULAR ASSEMBLY

: DECISION ON PETITION

This is a decision on the petition filed on May 13, 2011 seeking to review the examiner's Office actions and determine the application is in condition for allowance. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is **DISMISSED**.

The petition is being interpreted as a request for supervisory review of the examiner's examination of the application. A review of the application has been made in view of this petition. The review of the prosecution history does not show the examiner has acted in an arbitrary and capricious manner in the performance of his duties but performed within the duties of his oath of office in accordance with the applicable Federal statutes and regulations and USPTO policy. While a tone of frustration is apparent from the petition, applicant needs to realize that the examiner is required to operate within the bounds of established legal standards and precedence. In response to the petition, the examiner is hereby reminded to carefully consider all claim amendment and arguments presented by the applicant. Additionally, the examiner is further reminded and directed to fully explain why the claims are unpatentable.

In the petition, the issues presented by petitioner are clearly directed to the propriety of the examiner's rejection of claims 1-25 under various sections of applicable 35 USC § 112 and 103 and his response to the applicant's arguments. The question of whether the examiner has properly considered and interpreted certain claim limitations in the rejection of claims under 35 USC § 112 and 103 is clearly an appealable issue under 37 CFR § 41.31(a) (1). According to 37

CFR § 1.181(a)(1)[1], it is clear that petitioner's arguments will not support the requested relief, because the relief requested is simply not the type of relief that can be obtained by petition. The propriety of claim interpretation in a rejection of a claim, ultimately, is to be determined by the Board of Patent Appeals and Interferences in accordance with 37 CFR § 1.181(a) (1).

Petitioner has also requested that the examiner be replaced. As noted earlier, there is no evidence that the examiner has taken an arbitrary and capricious position but has acted properly within the scope of his authority. There is no reason to believe that the examiner will not continue to do so. Moreover, applicant has the right to appeal the rejection of the claimed invention in accordance with 37 CFR § 41.31 if he/she disagrees with the stated position of the examiner. Since the application is under final rejection, the application is being returned to the examiner awaiting the applicant's Notice of Appeals and Appeal Brief.

Conclusion

For the reasons outlined above, the Office mailed on March 18, 2011 is proper in accordance with proper Office procedure. The issues raised by petitioner are appealable issues and will not be decided by petition. Accordingly, the Office action of March 18, 2011 is proper and stands.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3729 awaiting applicant's Notice of Appeal and Appeal Brief. 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). The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. 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.

The petition is DISMISSED.

Donald T. Hajec, Director
Technology Center 3700

[1] 37 CFR § 1.181(a) (1) states: Petition may be taken to the Director: (1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in the ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court.

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SCHMEISER OLSEN & WATTS
18 E UNIVERSITY DRIVE
SUITE # 101
MESA AZ 85201

MAILED
SEP 29 2011
OFFICE OF PETITIONS

In re Application of :
Trevino, et al. :
Application No. 11/860,135 : ON PETITION
Filed: September 24, 2007 :
Attorney Docket No. ATLA-11104 :

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

The petition is GRANTED.

The application became abandoned March 30, 2011 for failure to timely submit a proper reply to the final Office action mailed December 29, 2010. The final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed July 19, 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 petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including fee and submission required by 37 CFR 1.114; (2) the required petition fee; 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 $2,350.00 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.

This application is being referred to Technology Center AU 1733 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 8, 2011

TO SPE OF : ART UNIT 2128 SPE Kamini S. Shah

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/860,170 Patent No.: 7,853,439 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Should the change to Item (63) Related Application Data be approved as requested by applicant?
See COCIN dated 03-30-2011

Antonio Johnson

Certificates of Correction Branch
(571)272-0483 Fax – (571)270-9846

Thank You For Your Assistance

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

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

Comments: The Examiner notes that PCT/AU/2006000420 was filed 29 March 2006 as per Applicants request for correction.

_____ **SPE** /Kamini Shah/ **Art Unit** 2128

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/6/09

TO SPE OF : ART UNIT 2873 Macky Ricky (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/860223 Patent No.: 7471438

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. _____

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: _____

/Ricky Mack/ _____ 2873
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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MAILED

SEP 23 2011

OFFICE OF PETITIONS

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

In re Patent No. 7,981,150
Issued: July 19, 2011
Application No. 11/860,253
Filed: September 24, 2007
Atty. Dkt. No.: 10527-809001 / 06-01553

: DECISION ON PATENT TERM and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the application for patent term adjustment filed September 19, 2011 requesting that the patent term adjustment be increased from 99 days to 185 days.

The request for reconsideration of the patent term adjustment (PTA) pursuant to 37 CFR 1.705(d) is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The above-identified application matured into U.S. Pat. No. 7,981,150 on July 19, 2011. The patent issued with a patent term adjustment of 99 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d).

37 CFR 1.704

Patentees contest the reduction of 90 days in connection with the reply filed February 26, 2010 and argue that the correct reduction is 88 days

Review of the record reveals that the correct period of reduction in connection with reply filed February 26, 2010 is 88 days. Accordingly, the request for reconsideration of the reduction of 90 days under 37 CFR 1.704(b) in connection with the reply filed February 26, 2010 is hereby GRANTED.

Patentees further assert that the patent term adjustment is subject to an additional five days reduction in connection with the reply filed January 10, 2011.

A review of the record reveals that the patent term adjustment is subject to an additional five days of reduction as argued in connection with the reply filed January 10, 2011. The reduction commenced January 6, 2011 and ended January 10, 2011. See, 37 CFR 1.704(c)(8). Accordingly, with respect to the request that the patent term adjustment be reduced to reflect a five day reduction in connection with the reply field January 10, 2011, the request for reconsideration is GRANTED.

Further review of the record reveals that the patent term adjustment is subject to further reduction in connection with replies filed by applicant.

The patent term adjustment is subject to further reduction of nine days in connection with the reply filed May 18, 2011 in accordance with 37 CFR 1.704(c)(10). The reduction commenced May 18, 2011, the date that the after allowance submission was filed, and ended May 26, 2011, the date that a reply in response thereto was mailed.

The patent term adjustment is subject to further reduction of 19 days in connection with the replies filed July 1, 2011 and July 15, 2011 in accordance with 37 CFR 1.704(c)(10). The reduction commenced July 1, 2011, the date that the submission was filed, and ended July 19, 2011, the date that the patent issued.

37 CFR 1.703(b)

Patentees further contest the adjustment of 102 days of "B delay" and assert that the correct period of adjustment in this regard is 191 days. Patentees' arguments have been carefully considered, but are not found persuasive.

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

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

37 CFR 1.702(b) states in relevant part:

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

37 CFR 1.703(b) states in relevant part:

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

Accordingly, in the instant matter, and in compliance with the provisions of law and rules set forth above, the period of adjustment under § 1.702(b) is 102 days, the period from January 5,

2011, the date that the RCE was filed, to July 19, 2011, the date that the patent issued, being excluded from the period of adjustment under 37 CFR 1.702(b).

CONCLUSION

In view thereof, at the time of issuance, the patent was entitled to an overall adjustment of 68 days (147 days under 37 CFR 1.702(a) + 102 days under 37 CFR 1.702(b) – 181 days of applicant delay under 37 CFR 1.704).

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 68 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 : 7,981,150

DATED : July 19, 2011 **DRAFT**

INVENTOR(S) : Scheuermann, 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 99 days

Delete the phrase "by 99 days" and insert -- by 68 days --

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/9/11

TO SPE OF : ART UNIT 3652

SUBJECT : Request for Certificate of Correction for Appl. No.: 11860328 Patent No.: 7857139

CofC mailroom date: 2/22/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

David Ortiz
AU 3662 SPE

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

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

MAILED
DEC 13 2010
OFFICE OF PETITIONS

In re Application of :
Joerg Berthold, et al. :
Application No. 11/860,413 : DECISION GRANTING PETITION
Filed: September 24, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. :
I560.130.101/2007P51200US

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, December 10, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 22, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2826for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

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APR 19 2011

OFFICE OF PETITIONS

LAW OFFICES OF MIKIO ISHIMARU
333 W. EL CAMINO REAL
SUITE 330
SUNNYVALE CA 94087

In re Application of :
Yee, et al. :
Application No. 11/860,460 : DECISION ON PETITION
Filed: September 24, 2007 :
Attorney Docket No. 27-310 :

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply to the final Office action mailed June 16, 2010, which set a three (3) month shortened statutory period for reply. The application became abandoned on September 17, 2010.

The Notice of Appeal, filed January 4, 2011, has been entered and made of record. Accordingly, 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.

The appeal brief filed March 5, 2011, is noted.

The application file is being forwarded to Technology Center GAU 2818 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of :
Seyed M. Navidpour :
Application No. 11/860,529 : DECISION ON PETITION
Filed: September 24, 2007 : TO WITHDRAW
Attorney Docket No. 63832-8006.US01 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 2, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Jordan M. Becker on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

The correspondence address has been changed and is copied below.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Quantenna Communications, Inc.
3450 W. Warren Avenue
Fremont, CA 94535

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/860,529	09/24/2007	Seyed M. Navidpour	63832-8006.US01

CONFIRMATION NO. 6754

22918
PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

POWER OF ATTORNEY NOTICE

OC000000044606923

Date Mailed: 11/22/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/02/2010.

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

/kainabinet/

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

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Sheppard, Mullin, Richter & Hampton, LLP
390 Lytton Avenue
Palo Alto, CA 94301

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NOV 07 2011
OFFICE OF PETITIONS

In re Application of :
Seyed M. Navidpour et al. :
Application No. 11/860,529 : DECISION ON PETITION
Filed: September 24, 2007 : TO WITHDRAW
Attorney Docket No. 25DX-158721 : FROM RECORD
:

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

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

A review of the file record indicates that the power of attorney to Sheppard, Mullin, Richter & Hampton, LLP and all attorneys/agents of record has been revoked by the assignee of the patent application on October 25, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: IP Creators
P.O. Box 2789
Cupertino, CA 95015

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PPG INDUSTRIES INC
INTELLECTUAL PROPERTY DEPT
ONE PPG PLACE
PITTSBURGH PA 15272

MAILED
JUN 27 2011
OFFICE OF PETITIONS

In re Application of :
Chopra et al. :
Application No. 11/860,682 : ON PETITION
Filed: September 25, 2007 :
Attorney Docket No. 2151A1 :
For: PHOTOCHROMIC MATERIALS DEMONSTRATING IMPROVED FADE RATES

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the September 29, 2010 non-final Office action. No response being received and no proper extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on December 30, 2010. A Notice of Abandonment was mailed on April 7, 2011.

Applicants have submitted an amendment in reply to the September 29, 2010 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the September 29, 2010 non-final Office action, and the $1,620.00 petition fee.

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. Petitioners must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110.00 extension of time fee submitted with the petition on May 25, 2011

was submitted after the expiration of the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioners' deposit account.

After the mailing of this decision, the application will be returned to Technology Center AU 1626 for consideration of the amendment, filed May 25, 2011.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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HODGSON RUSS LLP
THE GUARANTY BUILDING
140 PEARL STREET
SUITE 100
BUFFALO NY 14202-4040

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Application of :
Thomas D. Sheehan :
Application No. 11/860,732 : DECISION ON PETITION
Filed: September 25, 2007 :
Attorney Docket No. 047449.00002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 14, 2009, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on December 15, 2009. See MPEP 1215.04. A Notice of Abandonment was mailed on June 21, 2010.

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

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

This application is being referred to Technology Center AU 3764 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

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COGNEX CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
1 VISION DRIVE
NATICK MA 01760-2077

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DEC 20 2011

OFFICE OF PETITIONS

In re Application of :
Ali Moghaddam Zadeh :
Application No. 11/860,800 : DECISION ON PETITION
Filed: September 25, 2007 :
Attorney Docket No. C07-010 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before December 7, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed September 7, 2011. Accordingly, the date of abandonment of this application is December 8, 2011. A Notice of Abandonment was mailed on December 14, 2011.

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

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

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

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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AT&T Legal Department - MB
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster NJ 07921

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FEB 21 2012
OFFICE OF PETITIONS

In re Application of

Hicks

Application No. 11/860,803

Filed: December 29, 2008

: DECISION ON PETITION

Attorney Docket No. **ERG 105 US**

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed June 28, 2011. The final Office action set a shortened statutory period for reply of three months from its mailing date. A response was not received within the allowable period, and the application became abandoned on September 29, 2011. A Notice of Abandonment was mailed on February 3, 2012.

The Request for Continued Examination filed February 1, 2012, is noted.

The address cited on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address cited on the petition; all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The application file is being forwarded to Technology Center 1700, GAU 1774 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Cc:
David C. Hall
PO Box 37428
Raleigh, NC 27627

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.
11/860,891	09/25/2007	Matthew R. Henry	Henry 6-26-1-12-11	7400

46900 7590 01/07/2011

MENDELSOHN, DRUCKER, & ASSOCIATES, P.C.
1500 JOHN F. KENNEDY BLVD., SUITE 405
PHILADELPHIA, PA 19102

EXAMINER	
HUR, JUNG H	

ART UNIT	PAPER NUMBER
2824	

MAIL DATE	DELIVERY MODE
01/07/2011	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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MANDELSOHN, DRUCKER & ASSOCIATES, P.C.
1500 JOHN F. KENNEDY BLVD., SUITE 405
PHILADELPHIA, PA 19102

In re Application of Matthew R. Henry, et al.
Appl. No.: 11/860,891
Filed: 09/25/2007
For: INTEGRATED CIRCUIT HAVING A MEMORY WITH PROCESS-VOLTAGE-TEMPERATURE CONTROL

: **DECISION ON PETITON TO WITHDRAW FINALITY OF OFFICE ACTION UNDER** *37 CFR 1.181*

This is a decision on the petition filed on September 9, 2010, requesting that the finality of the Office action of July 8, 2010 be withdrawn.

The petition is ***GRANTED***.

Petitioner asserts that the Office action (OA) of July 8, 2010 was improperly made final because it contained a new ground of rejection that was not necessitated by the amendment filed on April 12, 2010. It is argued that original claim 5, which depended from original claim 2 which depended from original claim 1 was rejected under 35 USC 102(b) as being anticipated by a prior art to Kang the non-final Office action of January 22, 2010. In reply to the non-final Office action, claims 2 and 5 were cancelled and the subject matter of these was incorporated into claim 1 (amended claim 1). Amended claim 1 was rejected, among other grounds, under 35 USC 103(a) as being unpatentable over Olarig in view of Kang in the final Office action of July 8, 2010. Because the rejection of amended claim 1 over Olarig in view of Kang was a new ground of rejection that was not necessitated by applicant's amendment, it is requested that the finality of the Office action of July 8, 2010 be withdrawn as improper pursuant to MPEP 706.07(a).

A review of the application file record reveals that amended claim 1 and original claim 5 have the same scope. Claim 5 was initially rejected under 35 USC 102(b) as being anticipated by Kang in the non-final Office action of January 22, 2010. In the Office action of July 8, 2010, amended claim 1 was rejected under 35 USC 102(b) as being anticipated by Kang. Amended claim 1 was also rejected under 35 USC 103(a) as being obvious over Olarig

in view of Kang. Because original claim 5 and amended claim 1 have the same scope and claim 5 was **not** rejected under 35 USC 103(a) over Olarig in view of Kang in the non-final Office action January 22, 2010, the rejection of amended claim 1 under 35 USC 103(a) over Olarig in view of Kang in the Office action of July 8, 2010 constituted a new ground of rejection that was not necessitated by applicant's amendment of April 12, 2010. Pursuant to MPEP 706.07(a), the Office action of July 8, 2010 may not properly be made final.

For the above stated reason, the petition is granted. The finality of the Office action of July 8, 2010 is hereby withdrawn.

The withdrawal of the finality of the Office action of July 8, 2010, results in the amendment filed September 9, 2010 becoming an amendment in reply to a non-final Office action under 37 CFR 1.111. The amendment filed September 9, 2010 will be entered and an Office action will be issued in due course. No further action by the applicant is required at this time.

Any inquiries concerning this decision should be directed to Richard Elms, Supervisory Patent Examiner, Art Unit 2824, at 571-272-1869.

Richard K. Seidel, TC Director
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE NW, SUITE 700
WASHINGTON, DC 20036

MAILED

MAR 07 2011

OFFICE OF PETITIONS

In re Application of :
Mitsuhiro DOBASHI :
Application No. 11/860,908 : DECISION GRANTING PETITION
Filed: September 25, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **100512** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 7, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is 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 26, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1776 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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MAY 31 2011

OFFICE OF PETITIONS

GENERAL MOTORS LLC
LEGAL STAFF
MAIL CODE 482-C23-B21
P O BOX 300
DETROIT MI 48265-3000

In re Application of :
Mayhew :
Application No. 11/860,944 : ON PETITION
Filed: September 25, 2007 :
Attorney Docket No. GP307259 :

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

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

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

The above-identified application became abandoned for failure to timely file a reply to the Notice to File Missing Parts, mailed October 9, 2007. This Notice set an extendable period for reply of two (2) months for applicant to submit the statutory basic filing fee, search fee, and examination fee, and an oath or declaration, together with the surcharge for its late filing. No reply having been received, the application became abandoned on December 10, 2007. The Office mailed a Notice of Abandonment on June 11, 2008.

The application has been abandoned for an extended period of time. Accordingly, on renewed petition, applicant must account for the delay.

Receipt of the statutory basic filing fee, search fee, examination fee, late surcharge, and the petition fee is acknowledged.

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

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303

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HARNESS DICKEY & PIERCE PLC
PO BOX 828
BLOOMFIELD HILLS MI 48303

MAILED
AUG 01 2011
OFFICE OF PETITIONS

In re Application of	:	
Mayhew	:	
Application No. 11/860,944	:	ON PETITION
Filed: September 25, 2007	:	
Attorney Docket No. GP307259	:	

This is a decision on the renewed petition to revive under 37 CFR 1.137(b), filed July 19, 2011.

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

The above-identified application became abandoned for failure to timely file a reply to the Notice to File Missing Parts, mailed October 9, 2007. This Notice set an extendable period for reply of two (2) months for applicant to submit the statutory basic filing fee, search fee, and examination fee, and an oath or declaration, together with the surcharge for its late filing. No reply having been received, the application became abandoned on December 10, 2007. The Office mailed a Notice of Abandonment on June 11, 2008. Applicant filed a petition to revive under 37 CFR 1.137(b) on May 18, 2011. However, the petition was dismissed in a decision mailed on May 31, 2011.

With the instant petition, applicant has accounted for the delay in filing the petition. The other requirements for a grantable petition were previously satisfied with the petition filed on May 18, 2011.

The application is being forwarded to the Office of Patent Application Processing for pre-examination processing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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ADELI & TOLLEN, LLP
11940 SAN VICENTE BLVD., SUITE 100
LOS ANGELES CA 90049

MAILED
DEC 08 2011
OFFICE OF PETITIONS

In re Patent No. 7,716,228 :
Issued: May 11, 2010 :
Application No. 11/861,141 : NOTICE
Filed: September 25, 2007 :
Attorney Docket No. FRST.P0015 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 1, 2011.

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

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

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

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (ZPS)
136 S WISCONSIN ST
PORT WASHINGTON WI 53074

MAILED
JUL 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,952,253	:	DECISION ON REQUEST FOR
BISCHEL, KEVIN ALLEN	:	RECONSIDERATION OF
Issue Date: May 31, 2011	:	PATENT TERM ADJUSTMENT
Application No. 11/861,147	:	
Filed: September 25, 2007	:	
Atty Docket No. WWCI0015.007	:	

This is a decision on the petition filed on June 20, 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 five hundred twenty-one (521) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

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.

37 CFR 1.703(b) indicates that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is the number of days, if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued. 35 U.S.C. 154(b)(1)(B). However, 37 CFR 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C.

154(b)(1)(B)(i) and (ii). Specifically, 37 CFR 1.703(b)(1) provides that the period of adjustment of the term of a patent shall not include the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the B delay period, the over three year period begins on September 26, 2010, and ends on July 1, 2010, the day before the RCE was filed, and is zero (0) days. See 35 U.S.C. 154(b)(1)(B)(i).

Accordingly, the patent term adjustment remains 273 days.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e).

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) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
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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SYNTA PHARMACEUTICALS CORP.
c/o WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED
MAY 27 2011
OFFICE OF PETITIONS

In re Application of :
Che, et al. :
Application No. 11/861,278 : DECISION
Filed/Deposited: 25 September, 2007 :
Attorney Docket No. S1581.70015US01 :

This is a decision on the petition filed on 16 February, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly, to the final Office action mailed on 11 August, 2010, with reply due absent extension of time on or before 11 November, 2010.

The application went abandoned by operation of law after midnight 11 November, 2010.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 16 February, 2011, Petitioner filed, *inter alia*, a petition with fee pursuant to 37 C.F.R. §1.137(b), with a reply in the form of a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment, and made the statement of unintentional delay.

The Office mailed the Notice of Abandonment on 14 April, 2011.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[3]))

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 1626 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/861,333	09/26/2007	David L. Stevens JR.	BEA9-2007-0022-US1	8209

49056 7590 03/09/2011
LIEBERMAN & BRANDSDORFER, LLC
802 STILL CREEK LANE
GAITHERSBURG, MD 20878

EXAMINER	
VERBRUGGE, KEVIN	
ART UNIT	PAPER NUMBER
2189	
MAIL DATE	DELIVERY MODE
03/09/2011	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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LIEBERMAN & BRANDSDORFER, LLC
802 STILL CREEK LANE
GAITHERSBURG MD 20878

In re Application of: David L. STEVENS, Jr.
Application No. 11/861,333
Filed: September 26, 2007
Atty Docket No.: BEA9-2007-0022-US1
For: METHOD FOR INVALIDATING PLURAL LINES IN A NEW BUFFER ALLOCATION

DECISION ON PETITION TO WITHDRAW THE FINALITY OF AN OFFICE ACTION

This is a decision on applicant's petition under 37 C.F.R. §1.181, filed on November 24, 2010, requesting withdrawal of the finality of Office action mailed September 24, 2010.

The petition is **DISMISSED.**

Applicable Prosecution History

September 26, 2007	Original Application filed.
January 19, 2010	Examiner issued a FAOM (non-final Office action), rejecting all claims 1 - 20 under 35 U.S.C. § 103(a) over AAPA in view of Milburn et al. (US Patent No. 5,524,233). Claims 14-20 are also rejected under 35 USC 101.
April 19, 2010	Applicant filed a response to the non-final action above, with an amendment to only the independent claim 14 to overcome the rejection made under 35 USC 101, and arguing the merits of the rejection under 35 USC 103(a).
June 11, 2010	Examiner mailed final action, maintaining the rejection of all claims, 1 – 20, under 35 U.S.C. § 103(a) over AAPA in view of Milburn et al. (US Patent No. 5,524,233), and withdrew the rejection under 35 USC 101.
August 4, 2010	Applicant filed a response to the final action, arguing the merits of the references applied.

August 10, 2010	Advisory Action was mailed, maintaining the Finality of the office action mailed on June 11, 2010.
September 13, 2010	RCE filed with amendments to independent claims 1, 8, and 14.
September 24, 2010	Examiner mailed final action, maintaining the rejection of all claims, 1 – 20, under 35 U.S.C. § 103(a) over AAPA in view of Milburn et al. (US Patent No. 5,524,233).
November 24, 2010	Instant petition filed, requesting withdrawal of Finality of office action mailed on September 24, 2010.

REQUIREMENTS

A petition under 3 7 CFR § 1.181 must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. Note, the mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. In addition § 1.181 (f) sets forth: any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely.

The petition filed on November 24, 2010 includes the elements above, and is filed within 2 months of the mailing of the Final Office Action.

RELIEF REQUESTED

The Applicant respectfully petitions that the Finality of the office action mailed on September 24, 2010 be withdrawn.

RULES AND PROCEDURE

37 CFR 1.181(f) states: The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provide. This two-month period is not extendable.

MPEP 706.07 sets forth that the examiner should never lose sight of the fact that in every case the applicant is entitled to a fair and full hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal; and that in making the final rejection, they [the grounds of rejection] must be clearly developed to such an extent that applicant may readily judge the advisability of appeal unless a single previous Office action contains a complete statement supporting the rejection.

Further, MPEP 706.07(b) sets forth that the claims of an application for which a request for continued examination (RCE) has been filed may be finally rejected in the action immediately subsequent to the filing of the RCE (with a submission and fee under 37 CFR

1.114) where all the claims in the application after the entry of the submission under 37 CFR 1.114 (A) are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114, and (B) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to the filing of the RCE under 37 CFR 1.114.

DECISION

In the instant petition , Petitioner contends that the amendments filed on September 13, 2010,

> "introduce subject matter that was not present in the prior scope of the claims previously examination, and as such the amended claims are not drawn to the same invention claimed in the prior claim scope. The amended limitations substantively change the scope of the claims, and as such, the amended claims are not drawn to the same invention as the claims in the prior form. The Examiner has overlooked the additional element added to the claims, from the prior pending claims, and has failed to conduct a substantive examination of the now pending claims".

In the instant application, **Claim 1** has been amended as follows:

> 1. (Currently Amended) A method for allocating a buffer in a multiprocessor computing system, comprising:
> configuring a computer system with multiple processors;
> requesting a remote buffer allocation by a first processor, said remote buffer having multiple cache lines, **said remote buffer in communication with said processor over a network;**
> **an operating system supporting a communication protocol** for issuing a single cache line invalidate command to invalidate at least two cache lines in said remote buffer allocation prior to said first processor writing to at least one of said cache lines in said buffer for a first time;
> receiving by said first processor an acknowledgment of invalidation of said cache lines; and
> writing by said first processor to at least one of said invalidated cache lines following receipt of said acknowledgment of invalidation of the cache lines.

Claims 8 and 14 were also amended in a similar manner. Hence Claim 1 is treated as an exemplary claim in the consideration of the instant petition.

The amendments to the claims made on 9/13/10 included two parts: 1) a limitation that the remote buffer is in communication with the processor over a network and 2) a limitation that the operating system supports a communication protocol directed to a function that was already in the claims (issuing a single cache line invalidate instruction).

It must be noted that the claims that were present in the application (original set of claims) before the entry of the amendments of September 13, 2010, included reference to a remote buffer. The original set of claims also included reference to requesting a remote buffer

allocation, issuing an invalidate command to the remote buffer, receiving an acknowledgment of the invalidation from the remote buffer, and writing to the invalidated line(s) in the remote buffer by the processor. Since the claim explicitly mentions various communications between the processor and the buffer, it is clear that the remote buffer was in communication with the processor and that this communication took place over a network (the term "remote" requires the buffer to be at some distance from the processor, and communication can only take place over a distance using a network of some type), even before the limitation "**said remote buffer in communication with said processor over a network" was explicitly added to the claim.**

Similarly, the original set of claims also previously included the limitation that the **operating system supported a communication protocol**. The claims clearly included the various communications mentioned above, back and forth between the processor and the remote buffer, and the clear meaning of the claims is that this communication was accomplished by the operating system even though it was not explicitly stated before the amendment. The operating system of any data processing device is the software that controls the allocation and usage of hardware resources such as memory, processors, etc. In other words, although not explicitly stated in the claims, it was clear that the claimed invention performed the function of issuing invalidate commands through an operating system that supported a communication protocol for performing those commands. This is also supported by Applicants Admitted Prior Art at page 3, lines 17-19 of the specification, "the allocation is done by the operating system that manages main memory by allocating and freeing portions of memory that are scheduled to run on the processor...."

Since the two "new" limitations were already present in the claims for the reasons mentioned above, all the claims in the application after the entry of the submission under 37 CFR 1.114 (A) were drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114, and (B) was rejected on the grounds and art of record.

For the above stated reasons, the petition is **DISMISSED.**

The application remains under final rejection with the time period for response continuing to run from the mailing of the Final Office action, September 24, 2010.

Any inquiry concerning this decision should be directed to Mano Padmanabhan whose telephone number is (571) 272-4210.

Nestor Ramirez, Director
Technology Center 2100
Computer Architecture, Software, and Information Security

NRR/MP

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	11861395
Filing Date	26-Sep-2007
First Named Inventor	Kunihiro OGURA
Art Unit	1721
Examiner Name	HOA LE
Attorney Docket Number	KON-2211
Title	ELECTROPHOTOGRAPHIC PHOTORECEPTOR, AND PROCESS CARTRIDGE AND IMAGE FORMING APPARATUS EMPLOYING THE SAME

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	/DCL/
Name	Donald C. Lucas
Registration Number	31275

UNITED STATES 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 :

Kunihiro OGURA

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11861395

Filed : 26-Sep-2007

Attorney Docket No : KON-2211

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed May 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 1721 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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Schwegman Lundberg & Woessner / USAA
P.O. Box 2938
Minneapolis MN 55402

MAILED
JAN 30 2012
OFFICE OF PETITIONS

In re Patent No. 8,025,226 :
Issue Date: September 27, 2011 :
Application No. 11/861,484 : DECISION ON PETITION
Filed: September 26, 2007 :
Attorney Docket No. US-0282.04\2244,282US1 :

This is a decision on the Request For Certificate of Correction, which is being treated as a Petition Under 37 CFR §3.81(b), filed October 13, 2011, to identify the correct assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"United **States** Automobile Association (USAA)"

to:

--United **Services** Automobile Association (USAA)--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR §1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR §1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) submitted with Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,025,226.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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TUNG & ASSOCIATES / RANDY W. TUNG, ESQ.
838 W. LONG LAKE ROAD
SUITE 120
BLOOMFIELD HILLS MI 48302

JUN 21 2011

In re Application of :
TANG, WEI-PAI et al. :
Application No.: 11/861,624 : DECISION ON
Filing or 371(c) Date: September 26, 2007 : PETITION
Attorney Docket Number: 07-0413 (82,000-110) :

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark (USPTO) on April 26, 2011.

The petition is **DISMISSED**.

Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO (2) MONTHS from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed December 20, 2010. The Notice of Abandonment was mailed April 4, 2011.

The Office acknowledges receipt of Part B – Fee(s) Transmittal on March 8, 2011, as evidenced by the "Office Date" stamp thereon. However, without the inclusion of the Deposit Account Number on the form there was no authorization to charge the required fees.

As an additional aid to applicants, the rule as proposed has been amended to include §§ 1.311(b) (1) and (b)(2) that can act as safety mechanisms. Where it is clear that an applicant actually intends to pay the issue fee and publication fee (if required) such as by submitting an incorrect issue fee or publication fee, or a fee transmittal form (or letter) for payment of the fees, a request to charge the correct issue fee or any publication fee due to any deposit account identified in a previously filed authorization to charge **such** fees, will be allowed to act a payment of the correct issue fee.

Petitioner should review the amended rules pertaining to general authorization to pay fees. See 65 FR 54647 September 8, 2000, revised 69 FR 56481 September 21, 2004, effective September 21, 2004. Unfortunately, the application file does not reveal a previously filed authorization to charge **such** fee(s) or specifically the issue fee.

In light of the non-compliance with 37CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail:	Mail Stop Petitions Commissioner for Patents Office of Petitions P O Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

TUNG & ASSOCIATES / RANDY W. TUNG, ESQ.
838 W. LONG LAKE ROAD
SUITE 120
BLOOMFIELD HILLS, MI 48302

In re Application of
Wei-Pai Tang, et al.
Application No. 11/861,624
Filed: September 26, 2007
Attorney Docket No: 07-0413 (82,000-110)

ON PETITION

This is a decision on the petition, filed June 24, 2011, to revive the above-identified application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 21, 2011. A Notice of Abandonment was mailed on April 4, 2011. On June 24, 2011, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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NOV 16 2010

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STATTLER-SUH PC / NETLOGIC
60 SOUTH MARKET STREET
SUITE 480
SAN JOSE CA 95113

In re Application of :
Stefanos Sidiropoulos et al. :
Application No. 11/861,690 : NOTICE
Patent No. 7,436,229 :
Filed: September 26, 2007 :
Attorney Docket No. **AELU.P0014**

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SEP 20 2010

OFFICE OF PETITIONS

MICHAEL O. SCHEINBERG
P.O. BOX 164140
AUSTIN TX 78716-4140

In re Application of	:	
Jeroen Van De Water et al	:	
Application No. 11/861,721	:	DECISION GRANTING PETITION
Filed: September 26, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. FNL0701US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 17, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 23, 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 2881 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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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.
11/861,814	09/26/2007	Derrin M. Berger	POU920070031US1	8979

33558 7590 11/05/2010

INTERNATIONAL BUSINESS MACHINES CORPORATION
Richard Lau
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE, NY 12601

EXAMINER	
DILLON, SAMUEL A	
ART UNIT	**PAPER NUMBER**
2185	

NOTIFICATION DATE	DELIVERY MODE
11/05/2010	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):

poiplaw2@us.ibm.com

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INTERNATIONAL BUSINESS MACHINES CORPORATION
Richard Lau
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE NY 12601

In re Application of: BERGER et al.
Application No. 11/861,814
Filed: September 26, 2007
For: SYSTEM TO IMPROVE DATA STORE THROUGHPUT FOR A SHARED-CACHE OF A MULTIPROCESSOR STRUCTURE AND ASSOCIATED METHODS

DECISION ON PETITION
UNDER 37 C.F.R. § 1.181

This is a decision in response to the petition filed September 27, 2010 under 37 CFR § 1.181 requesting the entry of amendment erroneously filed into a different application on September 24, 2010, into the instant application.

The petition is **GRANTED**.

A non-final office action was mailed in the instant application on June 24, 2010, with a shortened statutory period of 3 months set for response. Therefore a response from applicant was due by September 24, 2010. Applicants petition that the response was timely filed, though a wrong Application Number was entered by error at the time of EFS filing.

In support of the petition, petitioner provides a copy of the Electronic Acknowledgement Receipt from the erroneous application indicating receipt at the USPTO on September 24, 2010 of a amendment filed after non-final action. Each of the pages of the amendment filed on September 24, 2010, in the wrong application, each have the Serial Number of the instant application in the header.

The Electronic Acknowledgement Receipt is the electronic equivalent of a postcard receipt. M.P.E.P. § 503 states that "A post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO."

In reviewing the attached copies of the Electronic Acknowledgement Receipt, and Reply to Office action, it is noted that papers were timely filed, but with an incorrect application serial number. The correct application serial number should be –11/861,814 --.

Under current Office procedure, a response that has an incorrect application number is handled in accordance with MPEP § 508.03. If a paper having an incorrect application number contains sufficient information to identify the correct application and was timely filed, the holding of abandonment will be withdrawn. In reviewing the papers submitted, it is concluded that the information contained thereon, includes name of the inventor, filing date of the application, title of the invention and the name of an examiner in the TC, and the correct Serial Number in all the pages of the response thereon which is deemed sufficient to associate the papers with the instant file.

For the above stated reasons, the petition is **GRANTED**. The amendment has been copied over to the instant application, SN 11/861,814, and the application is forwarded to the examiner to act on the merits of the application.

/Mano Padmanabhan/

Mano Padmanabhan
Quality Assurance Specialist, WG 2180
Technology Center 2100,
Computer Architecture, Software, and
Information Security
571-272-4210

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE WA 99201

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Application of :
Ming Zhang et al. :
Application No. 11/861,821 : DECISION ON PETITION
Filed: September 26, 2007 :
Attorney Docket No. MS1-4634US :

This is a decision on the petition filed October 19, 2010, under the provisions of 37 CFR 1.59(b), to expunge information from the above identified application.

The petition to expunge is **DISMISSED**.

Any request for reconsideration of this decision must include a cover letter entitled "Renewed Petition under 37 CFR 1.59(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

As an initial matter, petitioner should note that from the list of documents being sought to be expunged from the instant application, all the documents identified in the instant petition, with the exception of "EFS Acknowledgment Receipt" and "Fee Worksheet (PT0-875)" had sufficient identifiers thereon to be associated with the application number indicated on the documents. These documents have been closed from the Image File Wrapper (IFW) record of the instant application thereby removing them from a list of publicly available documents associated with this application. The document "Fee Worksheet (PT0-875)" does not appear to have been filed on October 4, 2010 in the instant application and as such its expungement cannot be considered further. However, the "EFS Acknowledgement Receipt" had only the identifiers associated with the instant application and thus a petition under 37 CFR 1.59(b) is appropriate to consider its expungement from the instant application. The discussion below pertains to expungement of "EFS Acknowledgement Receipt" from the file record of the instant application.

The grant of a petition under 37 CFR 1.59 (b) to expunge information submitted in an incorrect application will be governed by the factors: (A) the Office can effect such return prior to the issuance of any patent on the application in issue; (B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to

the party who submitted the information or to the party in interest on whose behalf the information was submitted; (C) the information has not otherwise been made public; (D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted; (E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and (F) the petition fee as set forth in 37 CFR 1.17(g) is included. See MPEP 724.05 (III). The instant petition fails to satisfy the factors (B) and (D).

In regard to factors (B) and (D), the instant petition fails to include a statement that states (a) failure to obtain the return of the information submitted 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 (b) that there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted.

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) 272-4914.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/28/11

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: 11861891 Patent No.: 7918126

CofC mailroom date: 04/12/11

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 571-270-9990

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: _____

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE **Art Unit** 2856

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

MAILED

OCT 2 1 2010

OFFICE OF PETITIONS

In re Application of
Carl F. Edman, et al.
Application No. 11/862,069
Filed: September 26, 2007
Attorney Docket No. PHILO.015A

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 13, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Thomas R. Arno on behalf of all attorneys of record who are associated with customer No. 25189. All attorneys/agents associated with the Customer Number 25189 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 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: PHILOMETRON, INC.
10451 ROSELLE STREET
SUITE 100
SAN DIEGO, CA 92121

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 NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/862,069	09/26/2007	Carl F. Edman	PHILO.015A

CONFIRMATION NO. 9380

POWER OF ATTORNEY NOTICE

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

OC000000044088145

Date Mailed: 10/20/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/13/2010.

- 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.

/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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MEADWESTVACO CORPORATION
ATTN: IP LEGAL DEPARTMENT
1021 MAIN CAMPUS DRIVE
RALEIGH NC 27606

MAILED

SEP 03 2010

OFFICE OF PETITIONS

In re Application of	:	
Evertt Crews, et al.	:	
Application No. 11/862,273	:	DECISION GRANTING PETITION
Filed: September 27, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0335-CIP	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, September 3, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 28, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1793 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/862,274	09/27/2007	Joon KANG	Q102206	9767

23373 7590 11/24/2010

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
KIM, RICHARD H

ART UNIT	PAPER NUMBER
2871	

NOTIFICATION DATE	DELIVERY MODE
11/24/2010	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):

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

November 22, 2010

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of :
KANG, JOON et al. : **DECISION ON PETITION**
Application No. **11/862274** :
Filed: **09/27/2007** :
Attorney Docket No: **Q102206**

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 27, 2007.

The petition is **DISMISSED.**

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, (One (1) set for EFW filings, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings

"The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

The petition did not meet the following requirement(s). 1 ☐ 2 ☑ 3 ☐

A renewed petition filed under 37 C.F.R. 1.84 (a) (2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/862,274	09/27/2007	Joon KANG	Q102206	9767

7590 01/28/2011

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER	
KIM, RICHARD H	

ART UNIT	PAPER NUMBER
2871	

NOTIFICATION DATE	DELIVERY MODE
01/28/2011	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

January 26, 2011

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of : **DECISION ON PETITION**
Kang, Joon, et al,
Application No. **11/862274** : **ACCEPTANCE OF COLOR**
Filed: **09/27/2007** : **DRAWINGS**
Attorney Docket: **Q102206** :

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 27, 2007.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

   "The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

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.
11/862,274	09/27/2007	Joon KANG	Q102206	9767

7590 01/31/2011

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER	
KIM, RICHARD H	

ART UNIT	PAPER NUMBER
2871	

NOTIFICATION DATE	DELIVERY MODE
01/31/2011	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

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January 27, 2011

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of
McIntyre, Cameron C., et al,
Application No. **11/862274**
Filed: **09/27/2007**
Attorney Docket: **Q102206**

: **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) January 24, 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
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Alexandria, VA 22313-1450
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

DEC 02 2010

OFFICE OF PETITIONS

In re Application of :
Tao Li et al. :
Application No. 11/862,330 : DECISION ON PETITION
Filed: September 27, 2007 :
Attorney Docket No. **010161D3** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 5, 2010, to revive the above-identified application.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 23, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 24, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

The petition is hereby **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.

This application is being referred to Technology Center AU 2618 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

MAY 25 2011

OFFICE OF PETITIONS

DR. BANGER SHIA
PATENT OFFICE OF BANG SHIA
102 LINDENCREST CT.
SUGAR LAND TX 77479-5201

In re Application of :
Ming-Jen Hsiao et al. :
Application No. 11/862,393 : ON PETITION
Filed: September 27, 2007 :
Attorney Docket No: SW-971436 (SW-94) :

This is a decision on the petition filed May 11, 2011under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed December 24, 2009. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned March 25, 2010. Accordingly, a Notice of Abandonment was mailed July 9, 2010.

This matter is being referred to Technology Center 3742 for appropriate action on the amendment filed May 11, 2011.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
APR 12 2011
OFFICE OF PETITIONS

In re Application of	:	
Steven SAPP et al.	:	
Application No. 11/862,396	:	DECISION ON PETITION
Filed: September 27, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 018865-009720US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 09, 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 **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation

by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) 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

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
MAY 23 2011
OFFICE OF PETITIONS

In re Application of :
Steven SAPP et al. :
Application No. 11/862,396 : DECISION ON PETITION
Filed: September 27, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 018865-009720US :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 02, 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) 272-4231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2811 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

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
11/862,396	09/27/2007	2811	1300	83778-736529(009720US)	14	1

CONFIRMATION NO. 9965

CORRECTED FILING RECEIPT

20350
KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OC00000047786204

Date Mailed: 05/20/2011

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)

Steven Sapp, Felton, CA;
Peter H. Wilson, Boulder Creek, CA;

Power of Attorney: The patent practitioners associated with Customer Number 20350

Domestic Priority data as claimed by applicant

This application is a DIV of 10/931,887 08/31/2004 PAT 7,291,894
which is a DIV of 10/200,056 07/18/2002 PAT 6,803,626

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: 10/10/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/862,396**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

FIELD EFFECT TRANSISTOR WITH TRENCH FILLED WITH INSULATING MATERIAL AND STRIPS OF SEMI-INSULATING MATERIAL ALONG TRENCH SIDEWALLS

Preliminary Class

257

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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VIERRA MAGEN/SANDISK CORPORATION
575 MARKET STREET
SUITE 2500
SAN FRANCISCO CA 94105

MAILED

MAR 14 2012

OFFICE OF PETITIONS

In re Patent No. 7,978-520 :
Issue Date: July 12, 2011 :
Application No. 11/862,485 : DECISION ON PETITION
Filed: September 27, 2007 :
Attorney Docket No. SAND-01287US0 :

This is a decision on the Request For Certificate Of Correction, filed January 11, 2012, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with the Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to identify the correct assignee's name on the previously submitted PTOL-85B and that such error was due to mistake of the Patent and Trademark Office. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to identify the correct assignee's name identified thereon from:

"SanDisk Corporation, Milpitas, CA (US)"

to:

--SanDisk Technologies Inc., Plano, TX (US)--

Section 1481.01, Correction of Assignees' Names, of the Manual of Patent Examining Procedures (MPEP) states, in part:

> "The Transmittal Form portion (PTOL-85B) of the Notice of Allowance Provides a space (item 3) for assignment data which should be completed in order to comply with 37 CFR 3.81. Unless an assignee's name and address are identified in the appropriate space for specifying the assignee, (i.e., item 3 of the Transmittal Form (PTOL-85B)), the patent will issue to the applicant. Assignment data printed on the patent will be based solely on the information so supplied.

> Any request for the 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:
>
> (A) state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of patent;
> (B) include a request for certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
> (C) include the processing fee set forth in 37 CFR 1.17(i).
>
> See 37 CFR §3.81(b)."

The petition states that the error in the assignee's name on the front of the patent was due to mistake of the Patent and Trademark Office. However, a review of the Issue Fee Transmittal Form (PTO- 85B) clearly reveals that the name of the assignee to be printed on the patent was ***SanDisk Corporation***, and the alleged error was ***not*** a Patent and Trademark Office mistake. Section 1481.01, supra, state that assignment data printed on the patent will be based solely on the information so supplied in the Issue Fee Transmittal Form (PTOL-85B).

Since the petition was accompanied deposit account authorization to charge any required fees. Therefore, a certification of correction fee of $100.00 (Fee Code 1811), as set forth under 37 CFR 1.20(a), and a petition processing fee of $130.00 (Fee Code 1464), as set forth under 37 CFR 1.17(i), have 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/SB/44) previously submitted.

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. 7,978,520.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

SEP 23 2010

OFFICE OF PETITIONS

MICHAEL M. DE ANGELI, P.C.
60 INTREPID LANE
JAMESTOWN, RI 02835

In re Application of	:	
Steven L. Cort	:	
Application No. 11/862,528	:	DECISION ON PETITION
Filed: September 27, 2007	:	
Attorney Docket No. 5958-014	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 3, 2009, as required by the Notice of Allowance and Fee(s) Due mailed August 3, 2009. Accordingly, the application became abandoned on November 4, 2009. A Notice of Abandonment was mailed November 16, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 publication fee of $300, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NASA GODDARD SPACE FLIGHT CENTER
8800 GREENBELT ROAD, MAIL CODE 140.1
GREENBELT MD 20771

MAILED

MAR 03 2011

OFFICE OF PETITIONS

In re Application of :
Harpold et al. :
Application No. 11/862,550 : DECISION ON PETITION
Filed: September 27, 2007 :
Attorney Docket No. GSC 15,341-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 24, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed September 16, 2010, which set a shortened statutory period for reply of two (2) months. Accordingly, the above-identified application became abandoned on November 17, 2010. A Notice of Abandonment was mailed on December 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a Substitute Specification, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being directed to the Office of Data Management for processing into a patent.

Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE :10/28/11

TO SPE OF : ART UNIT: 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/862,690 Patent No. 7,781,577

CofC mailroom date 12/12/10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square – 9D10-A

Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: The amendment to the claims is entered as it merely corrects formal matters in the claims and does not affect the scope of the claims. The amendment to the specification is entered as it merely corrects the inventorship as listed on the cover of the patent in accordance with the statement under 37 CFR 1.324(b) submitted with the amendment.

1623

SPE — Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE :10/28/10 ~~10/26/10~~

TO SPE OF : ART UNIT: 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/862,690 Patent No. 7,781,577

CofC mailroom date 12/12/10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square – 9D10-A

Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ **Approved** — **All** changes apply.

XXX **X Approved in Part** — Specify below which changes **do not** apply.

The amendment to the claims is entered.

☐ **Denied** — State the reasons for denial below.

Comments: The amendment to the claims is entered as it merely corrects formal matters in the claims and does not affect the scope of the claims. The amendment to the specification is not entered as it lacks a statement under 3.73(b) as is required to correct inventorship.

Thus, the correction for Inventorship is DENIED. Applicant is requested to submit a separate C of C with a 37 CFR 3.73(b) statement. See MPEP 1412.04.

/S. A. Jiang/

1623

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE :10/28/11

TO SPE OF : ART UNIT: 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/862,690 Patent No. 7,781,577

CofC mailroom date 12/12/10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square – 9D10-A

Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ **Approved** — **All** changes apply.

XXX **X Approved in Part** — Specify below which changes **do not** apply.

The amendment to the claims is entered.

☐ **Denied** — State the reasons for denial below.

Comments: The amendment to the claims is entered as it merely corrects formal matters in the claims and does not affect the scope of the claims. The amendment to the specification is not entered as it lacks a statement under 3.73(b) as is required to correct inventorship.

Thus, the correction for Inventorship is DENIED. Applicant is requested to submit a separate C of C with a 37 CFR 3.73(b) statement. See MPEP 1412.04.

/S. A. Jiang/

SPE

1623

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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TRASKBRITT, P.C. / BAKER HUGHES, INC.
BAKER HUGHES, INC.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

MAILED
MAR 07 2011
OFFICE OF PETITIONS

In re Application of :
Jimmy W. Eason, et al. :
Application No.: 11/862,719 : ON PETITION
Filed: September 27, 2007 :
Atty Docket No.: 1684-7898US ECC4-43928-US :

This is a decision on the petition, filed March 4, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3672 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 08-09-11

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/862743 Patent No.: 7960395

CofC mailroom date: 08-31-11

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

Note: _____

_____

Angela Green 571.272.9005

CofC Branch 703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE /James O. Wilson/ 9/9/2011

Art Unit 1624

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Anderson & Levine, L.L.P.
14785 PRESTON ROAD
SUITE 650
DALLAS TX 75254

MAILED

FEB 17 2011

OFFICE OF PETITIONS

In re Application of :
Graeme A. Gordon :
Application No. 11/862773 : DECISION
Filing or 371(c) Date: 09/27/2007 : ON PETITION
Title of Invention: :
AUTOMOBILE PROTECTION SYSTEM :

This is a decision on the "Petition for Revival of an Application for patent Abandoned Unavoidably Under 37 CFR 1.137(a)," filed November 22, 2010.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed May 22, 2009. 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 August 22, 2009. A Notice of Abandonment was mailed December 30, 2009.

The present petition

Petitioner files the present petition and provides that to the best of is knowledge he did not receive the Office action. Petitioner provides further that during the time period within which the Office action should have arrived, he was taking medication which prevented him from working full time, but that he was making occasional visits to the Office to pick up mail, and the Office action would have been obvious to him and he would have forwarded it to the inventor. Petitioner provides that he can not state this for certain, because of the side effects of the

medication, which has seemingly been short term memory loss. Petitioner, however, has no record of having transmitted the Office action to the inventor.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Applicant lacks item (**3**) as set forth above.

Applicable Law, Rules and MPEP

As to item (**3**), a showing of non-receipt of an Office communication may form the basis for revival of an application based upon unavoidable delay.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, provides in relevant part:

> The showing required to establish nonreceipt of an Office communication must include
>
> (1) a statement from the practitioner stating that the Office communication was not received by the practitioner at the correspondence address of record. 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) a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
>
> (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. 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.

MPEP 711.03(c)

Further as to item (**3**), and absent a demonstration of non-receipt as stated supra, petitioner must provide a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. In order to determine whether the delay was unavoidable, the courts have adopted a "reasonably prudent person" standard. The courts have provided that:

> [t]he word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which

"requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[2]

The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Applicant is further advised that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

Analysis

Applicant here asserts that the delay in responding to the Office action was unavoidably delayed because petitioner to the best of his knowledge, did not receive the office action. In order to demonstrate non-receipt of an Office action, petitioner must 1) state that the Office action was not received at the correspondence of record, state that a search of the file jacket and docket records reveals that the Office action was not received at the correspondence address of record, and 3) provide a copy of the master docket for the firm

[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

for a date three months from the mail date of the nonreceived 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 present application.

Absent the showing of non-receipt of the Office action as stated supra, petitioner must prove that he suffered from a medical illness from the time the reply to the Office action was due, August 22, 2009, to the filing of a grantable petition, and that the medical illness was so severe that it precluded him from conducting business to the extent that he could not reply to the Office action, or conduct any business. The standard 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. Petitioner must support his assertions with documentary evidence such as medical records. A showing of "unavoidable" delay based upon incapacitation must establish that Petitioner's incapacitation was of such nature and degree as to render petitioner unable to conduct business (*e.g.*, correspond with the Office) during the period between August 22, 2009, and the filing of a grantable petition. Such a showing must be supported by a statement from Petitioner's treating physician, and such statement must provide the nature and degree of Petitioner's incapacitation during this above-mentioned period.

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Alternate venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Finally, the address on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record. Applicant is reminded that 37 CFR 1.4(c) requires that "[s]ince different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects."

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: ALAN LINTEL
4747 HOLLY TREE
DALLAS, TX 75287

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

AUG 10 2011

OFFICE OF PETITIONS

Caterpillar Inc.
Intellectual Property Dept.
AH 9510
100 N.E. Adams Street
PEORIA IL 61629-9510

In re Application of :
John Kevin CLEMONS et al. :
Application No. 11/862,982 : ON PETITION
Filed: September 27, 2007 :
Attorney Docket No. 06-687 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 13, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 23, 2010, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on March 24, 2011.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 23, 2010 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with the petition on July 13, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Wilson Lee at (571) 272-1824 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3724 for appropriate action on the concurrently filed amendment.

David Bucci
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.
11/862,987	09/27/2007	Michael J. Wookey	063435-412991	1973

7590 04/14/2011

Polsinelli Shughart PC
on behalf of Oracle America, Inc.
700 West 47th Street
Suite 1000
Kansas City, MO 64112

EXAMINER	
LEE, MARINA	

ART UNIT	PAPER NUMBER
2197	

NOTIFICATION DATE	DELIVERY MODE
04/14/2011	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHEVRON CORPORATION
P.O. BOX 6006
SAN RAMON CA 94583-0806

MAILED

APR 20 2011

OFFICE OF PETITIONS

In re Application of :
Miller et al. :
Application No. 11/863,017 : DECISION ON PETITION
Filed: September 27, 2007 :
Attorney Docket No. T-6882A :
For: Preparation of Molecular Sieve SSZ-13 :

This is a decision on the petition, filed February 8, 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 to withdraw the holding of abandonment is **GRANTED**.

Applicant inadvertently filed a single application twice which resulted in the assignment of application numbers 11/863,017 and 11/863,005. Applicants contend they were not aware that duplicate applications existed until non-final Office actions were issued on August 31, 2010 in each application. Applicants elected to prosecute application 11/863,017 and expressly abandon application 11/863,005. Applicants provided a copy of the express abandonment in application 11/863,017, which resulted in the abandonment of both applications.

A review of the record confirms that the request for express abandonment indicated that application no. 11/863,005 and not application no. 11/863,017 should have been expressly abandoned. As such, the abandonment of application no. 11/863,017 is withdrawn. The application is restored to pending status.

This application is being referred to art unit 1732 for further processing in the normal course of business.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CHEVRON CORPORATION
P.O. BOX 6006
SAN RAMON CA 94583-0806

MAILED
JUN 23 2011
OFFICE OF PETITIONS

In re Application of :
HEE, et al :
Application No. 11/863,068 : DECISION ON PETITION
Filed: September 27, 2007 :
Attorney Docket No. T-6932 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 25, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 15, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 16, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 1775 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: PENNY L. PRATER
6001 BOLLINGER CANYON ROAD
SAN RAMON, CA 94583

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	11863084
Filing Date	27-Sep-2007
First Named Inventor	Huaning Niu
Art Unit	2471
Examiner Name	ROBERT LOPATA
Attorney Docket Number	SAM2B.PAU.E113
Title	SYSTEM AND METHOD FOR PROCESSING WIRELESS HIGH DEFINITION VIDEO DATA USING REMAINDER BYTES

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	/Michael Zarrabian/
Name	Michael Zarrabian
Registration Number	39886

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : June 14,2011

In re Application of :

Huaning Niu

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11863084

Filed : 27-Sep-2007

Attorney Docket No : SAM2B.PAU.E113

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed June 14,2011 , 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 2471 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
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Alexandria, VA 22313-1450
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LAW OFFICE OF CHARLES W. BETHARDS, LLP
P.O. BOX 1622
COLLEYVILLE TX 76034

DEC 15 2010

In re Application of :
UJJAIN, VIJAY K. et al. :
Application No.: 11/863,135 : DECISION ON
Filing or 371(c) Date: September 27, 2007 : PETITION
Attorney Docket Number: WM41480TS/46-068 :

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on October 28, 2010.

This petition is **GRANTED**.

The application was held abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance, mailed July 9, 2010 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on October 22, 2010.

Petitioner states that the issue fee transmittal and payment were timely filed via the USPTO. Petitioner submitted a copy of the original submission which included a properly completed Certificate of Mailing/Transmission.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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COOLEY, LLP
ATTN: PATENT GROUP
SUITE 1100
777 – 6th STREET, NW
WASHINGTON, DC 20001

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Application of :
David Finkelstein, et al. :
Application No. 11/863,165 :
Filed: September 27, 2007 :
Attorney Docket No. PGPC-016/01US 302055-2036 :

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 28, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The Office 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.

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: SYMANTEC / FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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NOV 16 2010

OFFICE OF PETITIONS

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

In re Application of :
Joshua MCWILLIAM, et al :
Application No. 11/863,238 :
Filed: September 27, 2007 :
Attorney Docket No. 25170-13351 :

CORRECTED
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 October 26, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have a power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to documents they file.

A review of the file record indicates that Daniel R. Brownstone does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

CC: BRIGHT HUB, INC.
270 RIVER STREET, SUITE 405
TROY, NY 12180

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	11863254
Filing Date	28-Sep-2007
First Named Inventor	YU-LAN KUO
Art Unit	2189
Examiner Name	HAMDY AHMED
Attorney Docket Number	27857-US-PA
Title	MEMORY DEVICES WITH DATA PROTECTION

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	/Belinda Lee/
Name	Belinda Lee
Registration Number	46863

UNITED STATES 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 31,2011

In re Application of :

YU-LAN KUO

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11863254

Filed : 28-Sep-2007

Attorney Docket No : 27857-US-PA

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed May 31,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid 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 2189 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450

MAILED

FEB 17 2011

OFFICE OF PETITIONS

Eastman Kodak Company
Patent Legal Staff
343 State Street
Rochester, New York 14650-2201

In re Application of	:	
Eric MASERA et al.	:	DECISION GRANTING PETITION
Application No. 11/863,302	:	UNDER 37 CFR 1.137(b)
Filed: 28 September 2007	:	
Atty. Docket No.: 92402NAB	:	

This is a decision on the petition under 37 CFR 1.137(b), filed 3 January 2011, to revive the above-identified application ("Application").

The petition is **GRANTED**.

The Application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Fee(s) mailed 3 September 2010 ("Notice"), which set a reply period of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned on 4 December 2010, with notification mailed 17 December 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a Statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of payment of the Issue and Publication fees, (2) a petition fee of $1620.00, and (3) a Statement of unintentional delay. The reply to the Notice is accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." 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.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-6051).

The application file will be referred to Office of Data Management.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

MAILED

MAR 10 2011

OFFICE OF PETITIONS

In re Application of :
Leonardo W. Estevez, et al. :
Application No. 11/863,311 : ON PETITION
Filed: September 28, 2007 :
Attorney Docket No.: TI-64989 :

This is a decision in response to the petition, filed, December 14, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 9, 2010, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 10, 2010. A Notice of Abandonment was mailed on November 22, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2618 for appropriate action by the Examiner in the normal course of business on the reply received December 14, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

A PATENT LAWYER CORP, PLC
R WILLIAM GRAHAM
22 S ST CLAIR ST
DAYTON, OH 45402

MAILED

AUG 18 2010

OFFICE OF PETITIONS

In re Application of
John A. Cole
Application No. 11/863,313
Filed: September 28, 2007
Attorney Docket No. J-00012-002

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed on June 30, 2010.

The request is **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 R. William Graham, on behalf of the practitioners of record associated with Customer Number 25178.

Customer Number 25179 has been withdrawn as attorney of record. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Non final Office action mailed March 30, 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.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: JOHN COLE
125 ADVANCED DR.
SPRINGBORO, OH 45066

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
11/863,313	09/28/2007	John A. Cole	J-00012-002

CONFIRMATION NO. 1506

25179
A PATENT LAWYER CORP, PLC
R WILLIAM GRAHAM
22 S ST CLAIR ST
DAYTON, OH 45402

POWER OF ATTORNEY NOTICE

OC000000043091547

Date Mailed: 08/17/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/30/2010.

- 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.

/atkelley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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AQUILLA PATENTS & MARKS, PLLC
221 COE HILL ROAD
CENTER HARBOR NH 03226-3605

MAILED

SEP 14 2010

OFFICE OF PETITIONS

In re Application of :
JESSE BILLIN :
Application No. 11/863,340 : DECISION ON PETITION
Filed: September 28, 2007 :
Attorney Docket No. **JBH-101** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 12, 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 and to submit corrected formal drawings on or before August 3, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed May 3, 2010. Accordingly, the date of abandonment of this application is August 4, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to the Office of Data Management for processing into a patent.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 6

DATE : 11/30/10

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 11863581 Patent No.: 7471721

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: Corrections do not change scope of claims.

12/1/2010

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

YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA, VA 22314

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of :
Anthony L. Payne :
Application No. 11/863,697 : DECISION ON PETITION
Filed: September 28, 2007 : TO WITHDRAW
Attorney Docket No. 0579-1160 : 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STURM & FIX LLP
206 SIXTH AVENUE
SUITE 1213
DES MOINES IA 50309-4076

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of :
Andrew J. Lethert :
Application No. 11/863,796 : DECISION ON PETITION
Filed: September 28, 2007 : TO WITHDRAW
Attorney Docket No. 2-5870-005 : 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 17, 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 Michael O. Sturm on behalf of all attorneys/agents associated with customer number 00803. All attorneys/agents associated with customer number 00803 have been withdrawn.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Andrew J. Lethert
3520 Cottonwood Bend #404
Ft. Myers, FL 33905-3882

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
11/863,796	09/28/2007	Andrew J. Lethert	2-5870-005

CONFIRMATION NO. 2332

POWER OF ATTORNEY NOTICE

803
STURM & FIX LLP
206 SIXTH AVENUE
SUITE 1213
DES MOINES, IA 50309-4076

OC000000045515049

Date Mailed: 01/18/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/17/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/14/2011 **Paper No.:** —

TO SPE OF : ART UNIT 1766

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/812,383 Patent No.: 7815826 B2

CofC mailroom date: 3/2/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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: _____

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE 1766 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

DEC 22 2010

OFFICE OF PETITIONS

In re Application of :
Ahmadreza (Reza) Rofougaran :
Application Number: 11/863,898 : ON APPLICATION FOR
Filing Date: 09/28/2007 : PATENT TERM ADJUSTMENT
Attorney Docket Number: :
18784US01 :

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)," filed on October 19, 2010, which is treated as a petition under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be increased from 474 days to 595 days. Applicants request this correction, in part, on the basis that the application will issue as a patent more than three years after the application was filed.

The request is **DISMISSED**.

To the extent the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). 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].

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

To the extent that the instant application for patent term adjustment requests reconsideration of the PTA at the time of

---

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 mailing of the Notice of Allowance, the request is **DISMISSED**.

On July 19, 2010, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date was 474 days (476 days of PTO delay and 2 days of applicant delay).

The instant application for patent term adjustment was timely filed.[2]

Applicants aver that the period of reduction of 2 days of applicant delay for filing a response on June 21, 2010, three months and 2 days after the day after the date of mailing of the Office action mailed on March 19, 2010, should be removed, as the due date for filing a reply to the Office action fell on a Saturday, June 19, 2010, and the response was timely filed on June 21, 2010.

Applicant's position has been considered, but is not persuasive.

MPEP 2732 states, in pertinent part:

> 37 CFR 1.704(b) provides that with respect to the ground for adjustments set forth in 37 CFR 1.702(a) through (e), and in particular 37 CFR 1.702(b), 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.... 37 CFR 1.704(b) indicates that 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 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. As discussed above, a reply is considered filed on the

[2] PALM Records indicate that the issue fee was paid on October 19, 2010.

> date of its actual receipt in the Office as defined by 37 CFR 1.6, and the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 will not be taken into account for patent term adjustment purposes.

Likewise, while 37 CFR 1.7(a) sets the time period for reply, it does not govern the determination of patent term adjustment. Simply put, the fact that the due date for a reply fell on a date more than three months from date the Office communication was mailed has no bearing on the determination of patent term adjustment.

It is undisputed that an Office action was mailed on March 19, 2010, and that a reply was filed on June 21, 2010, three months and 2 days after the day after the date that the Office action was mailed. Accordingly, the reduction of 2 days for applicant delay is warranted and will not be removed.

Accordingly, no change will be made to the patent term adjustment at the time of mailing of the Notice of Allowance.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

Douglas Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of :
Paintin, Scott :
Application No. 11/863,906 : ON PETITION
Filed: September 28, 2007 :
Attorney Docket No. 026595-009900US :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 24, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Response, including an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 3627 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/863,991	09/28/2007	Ernst Beutler	88265-6627	2680

28765 7590 12/07/2011

WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON, DC 20006

EXAMINER	
WONG, LESLIE A	
ART UNIT	PAPER NUMBER
1789	

NOTIFICATION DATE	DELIVERY MODE
12/07/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@winston.com
mwalker@winston.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DEC 07 2011

In re application of :
Beutler et al. : DECISION ON
Serial No. 11/863,991 : PETITION
Filed: September 28, 2007 :
For: **SHELF-STABLE CONDENSED MILK WITH REDUCED SUGAR CONTENT**

This is a decision on the request originally filed on November 2, 2011. The request is to resend and reset the response period from the Office Action mailed May 13, 2011. Applicants assert that during a routine check of the status of the application on PAIR on September 13, 2011, Applicants discovered that an Office Action was issued on May 13, 2011. This was the first time that Applicants knew of the Office Action because the Office Action had not been received by the Applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a

date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

The petitioner has not provided any evidence for consideration, thus the Office Action will not be resent nor the period reset.

The Petition is **DENIED**.

It is noted that a Request for Continued Examination was received on November 15, 2011, and the application will be processed accordingly.

Karen M. Young

Karen M. Young, Director
Technology Center 1700
Chemical and Materials Engineering

wk

Allan A. Fanucci
WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON DC 20006

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/15/11

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/864,006 Patent No. 7,700,126

CofC mailroom date 3/4/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **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

_____

_____ 1652
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/864,014	09/28/2007	Robert P. Morris	1501/US	2722

49277 7590 02/04/2011

SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER	
VU, KIEU D	

ART UNIT	PAPER NUMBER
2173	

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

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SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh NC 27607

In re Application of:
MORRIS, Robert
Application No. 11/864,014
Filed: September 28, 2007
For: **METHOD AND SYSTEM FOR PRESENTING INFORMATION RELATING TO A PLURALITY OF APPLICATIONS USING A THREE DIMENSIONAL OBJECT**

DECISION ON PETITION UNDER 37 C.F.R. § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on January 25, 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on January 25, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to Eddie C. Lee whose telephone number is (571) 272-1732.

Vincent Trans
Quality Assurance Specialist, TC 2100
571-272-3613

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/864,014	09/28/2007	Robert P. Morris	1501/US	2722

49277 7590 06/01/2011

SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER	
DINH, PHUONG T	

ART UNIT	PAPER NUMBER
2179	

MAIL DATE	DELIVERY MODE
06/01/2011	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.

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SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh NC 27607

In re Application of:
MORRIS, Robert
Application No. 11/864,014
Filed: September 28, 2007
For: **METHOD AND SYSTEM FOR PRESENTING INFORMATION RELATING TO A PLURALITY OF APPLICATIONS USING A THREE DIMENSIONAL OBJECT**

DECISION ON PETITION UNDER 37 C.F.R. § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on May 9, 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on May 9, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to Eddie C. Lee whose telephone number is (571) 272-1732.

/Eddie C. Lee/

Quality Assurance Specialist, TC 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/864,014	09/28/2007	Robert P. Morris	1501/US	2722

49277 7590 12/22/2011

SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER	
LO, WEILUN	
ART UNIT	**PAPER NUMBER**
2179	

MAIL DATE	DELIVERY MODE
12/22/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Theodosios Thomas
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/864,014
Filed: September 28, 2007
For: METHOD AND SYSTEM FOR PRESENTING INFORMATION RELATING TO A PLURALITY OF APPLICATIONS USING A THREE DIMENSIONAL OBJECT

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

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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.
11/864,014	09/28/2007	Robert P. Morris	1501/US	2722

49277 7590 03/29/2012
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER	
LO; WEILUN	

ART UNIT	PAPER NUMBER
2179	

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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Theodosios Thomas
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/864,014
Filed: September 28, 2007
For: METHOD AND SYSTEM FOR PRESENTING INFORMATION RELATING TO A PLURALITY OF APPLICATIONS USING A THREE DIMENSIONAL OBJECT

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 28 March 2012.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 28 March 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/26/12

TO SPE OF : ART UNIT: 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/864,015 Patent No. 11/864,015

CofC mailroom date 1/20/12

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Chris W J — **SPE**

2611 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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FOLEY HOAG, LLP
Patent Group
World Trade Center West
155 Seaport Blvd.
Boston, MA 02110

MAILED

MAR 23 2011

OFFICE OF PETITIONS

In re Application of :
Walter R. Perkins :
Application No. 11/864,070 : DECISION ON PETITION
Filed: September 28, 2007 : TO WITHDRAW
Attorney Docket No. TRA-051.01 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 10, 2011.

The request is **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 Beth E. Arnold, Jr. 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.

The application became abandoned for failure to timely reply to the Office action mailed July 14, 2010.

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: **Transave, Inc.**
Princeton Corporate Plaza
11 Deer Plaza Drive
Monmouth Junction, NJ 08852

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/864,070	09/28/2007	Walter R. Perkins	TRA-051.01

CONFIRMATION NO. 2822

POWER OF ATTORNEY NOTICE

25181
FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

OC00000046715035

Date Mailed: 03/22/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/10/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

Chang Sik Kim
78 Shaffer Road
Bridgewater NJ 08807

MAILED

AUG 22 2011

OFFICE OF PETITIONS

In re Application of	:	
Higa et al.	:	
Application No. 11/864,104	:	DECISION ON PETITION
Filed: September 28, 2007	:	PURSUANT TO
Attorney Docket No.	:	37 C.F.R. § 1.137(B)
077834.0106	:	
Title: PETROLEUM BASED	:	
PROCESSED DETERGENT FOR DRY	:	
CLEANING AND ITS USE	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed August 8, 2011, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to a non-final Office action, mailed December 13, 2010, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on March 14, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply

until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted an amendment, the petition fee, and the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

Petitioner has also submitted a three-month extension of time. An extension of time under 37 C.F.R. § 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] Accordingly, since the $555 extension of time submitted with the petition on August 8, 2011 was filed subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded via the mailing of a Treasury Check in due course.

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 August 8, 2011 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries

---

1 See Rule 1.137(d).
2 See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).
3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

concerning this application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MICHAEL LAUDE
4881 ORCHARD AVE.
SAN DIEGO CA 92107

MAILED
SEP 30 2011
OFFICE OF PETITIONS

In re Application of :
Laude and Glass :
Application No. 11/864,183 : ON PETITION
Filed: 09/28/2007 :
Title: GAME OF MISDIRECTION AND DETECTION :

This is response to the petition under 37 CFR 1.137(a), or in the alternative, under 37 CFR 1.137(b), filed August 21, 2011, to revive the above-identified application.

On April 13, 2011, the Examiner mailed a Notice of Non-Compliant Amendment, which set a period for reply of one month or thirty days from the mailing date of the Notice, whichever was longer, within which to supply the omission or correction in order to avoid abandonment. Extensions of the period for response were available under 37 CFR 1.136(a). In the absence of a timely and proper reply, the application became abandoned on May 14, 2011. On August 18, 2011, the Office mailed a Notice of Abandonment. On August 21, 2011, the present petition and reply were submitted and signed by inventor Michael Laude.

37 CFR 1.33(b) states in pertinent part:

> Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A patent practitioner of record appointed in compliance with § 1.32(b);
>
> (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
>
> (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.

Mr. Laude is not a patent practitioner of record or a registered attorney or agent not of record acting in a representative capacity. Furthermore, it does not appear that Mr. Laude is an assignee as provided for under 37 CFR 3.71(b). Lastly, there is no record that Ms. Glass has granted Mr. Laude power of attorney to prosecute the application on her behalf. **Therefore, inventors Glass and Laude must sign both the petition to revive the application and the reply (and any follow-on paper) pursuant to 37 CFR 1.33(b).** Accordingly, the petition and the reply are not properly signed by a person having authority to prosecute the application without the signature of a registered patent practitioner, an assignee accompanied by a statement under 37 CFR 3.73(b), or all the other inventors.

It is noted that petitioner filed the present petition as a petition under 37 CFR 1.137(a), or in the alternative, under 37 CFR 1.137(b). Petitioner submitted a $270.00 fee for the filing of the petition under 37 CFR 1.137(a); however, petitioner did not pay the required fee for filing a petition under 37 CFR 1.137(b). The Office notes:

> 35 U.S.C. 41(a)(7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), **the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.**
>
> **In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137.** See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) **will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.**

MPEP 711.03(c)(III)(B) (emphasis added).

In view of the above, the petition is dismissed. The Office will not render a decision on the present petition and the application will remain abandoned, until a "renewed" petition under 37 CFR 1.137(a) is filed and signed by a person(s) having authority to prosecute the application. No additional petition fee is required for filing a petition under 37 CFR 1.137(a).[1] In addition, the Office lacks the discretion

[1] 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) (unless previously paid);
> (3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

to, and will not, address the merits of the alternative petition under 37 CFR 1.137(b)[2] in the absence of the payment of the petition fee required by statute.

The appropriate forms for filing petitions under 37 CFR 1.137(a) and 1.137(b) are enclosed for petitioner's convenience.

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 submitted electronically via EFS-Web.

Telephone inquiries related 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

Enclosures: Form PTO/SB/61 and Form PTO/SB/64

---

[2] 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) (an additional $930.00 for a small entity);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL LAUDE
4881 ORCHARD AVE.
SAN DIEGO CA 92107

MAILED

JAN 31 2012

OFFICE OF PETITIONS

In re Application of
Laude and Glass
Application No. 11/864,183
Filed: 09/28/2007
Title: GAME OF MISDIRECTION AND DETECTION

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a) filed October 2, 2011, to revive the above-identified application.

On April 13, 2011, the Examiner mailed a Notice of Non-Compliant Amendment, which set a period for reply of one month or thirty days from the mailing date of the Notice, whichever was longer, within which to supply the omission or correction in order to avoid abandonment. Extensions of the period for response were available under 37 CFR 1.136(a). In the absence of a timely and proper reply, the application became abandoned on May 14, 2011. On August 18, 2011, the Office mailed a Notice of Abandonment.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed.

(2) The petition fee as set forth in § 1.17(l);

(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable; and

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to § 1.137(d).

This petition lacks items (1) and (3) above.

As item (1), the Office notes that petitioner did not submit a proper reply to the Notice of Non-Compliant Amendment of April 13, 2011, with the present petition. Rather, petitioner submitted the same claims 1-8 that were previously filed on January 30, 2011. In the Notice of Non-Compliant Amendment dated April 13, 2011, the Examiner advised petitioner that these claims were withdrawn

from consideration as being directed to a non-elected invention. The Examiner further stated that the application contains no claims and cannot be examined.

The required reply to a non-final action in a nonprovisional application abandoned for failure to prosecute may be either: (A) an argument or amendment under 37 CFR 1.111 or (B) the filing of a continuing application under 37 CFR 1.53(b). Before the application can be revived, petitioner must submit a proper reply. That is, applicants should file a renewed petition under 37 CFR 1.137 accompanied by a responsive amendment to the outstanding office action. If applicants wish to have claims 1-8 considered, they should consider filing a continuing application with a new oath or declaration, as well as a renewed petition under 37 CFR 1.137 to revive this application solely for the purpose of establishing continuity with the continuing application.

As to item (3), the Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable." 35 U.S.C. 133. As stated in MPEP 711.03(c)(II)(C)(2):

> Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:
>
> > The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.
>
> In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 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).

An application is "unavoidably" abandoned where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

In this instance, the showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. 133 and 37 CFR 1.137(a). Petitioner indicated that he was traveling for an extended period of time at the time the Office sent the Notice of Non-Compliant Amendment on April 13, 2011. Additionally, petitioner asserted that his laptop computer crashed shortly after the Office mailed the Notice rendering him unable to review and correct the application until he returned home.

Initially, the Office notes that petitioner did not set forth the dates of his departure and return. The petition is devoid of any explanation as to why petitioner's travels prevented him from receiving the email notifications from the USPTO of the outgoing Notice of Non-Compliant Amendment on April 13, 2011. Moreover, joint inventor, Kristine Glass, did not provide any statement as to why she was unable to receive the Notice of Non-Compliant Amendment sent from the USPTO on April 13, 2011, and submit a timely reply to avoid abandonment of the application. The Office notes that a showing of diligence in matters before the USPTO is essential to support a finding of unavoidable delay. See Futures Technology, Ltd. v. Quigg, 684 F. Supp. 430, 431, 7 USPQ2d 1588 (E.D. Va. 1988) (applicant's diligent inquiry into the status of the application is required to show unavoidable delay); Douglas v. Manbeck, 21 USPQ2d 1697, 1699-1700 (E.D. Pa. 1991), *aff'd*, 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992) (even representation by counsel does not relieve the applicant from his obligation to exercise diligence before the USPTO; applicant's lack of diligence extending two and one half years overcame and superseded any omissions by his counsel). However, the record does not support a showing of diligence on the part of petitioner. The Office notes that it was incumbent upon applicants to have a system in place or engage another to monitor correspondence from the USPTO during petitioner's travels to ensure that a timely response was filed. The Office reminds applicants that preoccupation with other matters that took precedence over the application does not support a showing of unavoidable delay. See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Furthermore, a delay resulting from a lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP does not constitute an "unavoidable" delay. See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981). Lastly, petitioner did not indicate the dates when his laptop crashed and when he was capable of reviewing and correcting the application. Petitioner did not explain how the laptop crash prevented inventor Glass from preparing and filing a timely reply. Furthermore, petitioner did not indicate what steps either applicant took to try to restore any lost information for this application after the laptop crashed in an effort to file a timely reply.

As petitioner has not provided a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, the petition under 37 CFR 1.137(a) is **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." Extensions of time are permitted under 37 CFR 1.136(a).

Instead of filing a renewed petition under 37 CFR 1.137(a), petitioner may wish to file a petition pursuant to 37 CFR 1.137(b) on the basis of **unintentional** delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed.

(2) The petition fee as set forth in § 1.17(m), an additional $930.00 for a small entity;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and,

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to § 1.137(d), unless previously filed.

Petitioner may wish to contact the Examiner directly of the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST) for assistance with filing a responsive reply to the outstanding Office action. The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Correspondence may also be submitted electronically via EFS-Web.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/28/10

TO SPE OF : ART UNIT: 3688

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/864,228 Patent No. 7,813,955

CofC mailroom date 10/28/10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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: Correction has been approved. Correcting related U.S. applicati
data.

R.A.
3682

SPE **Art Unit**

O.K.
/R.A./

FILED VIA EFS WEB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT

Applicants:	Ariff et al.	Docket No.:	40655.7117
Patent No.:	7,813,955	Issue Date:	October 12, 2010
Serial No.:	11/864,228	Group Art Unit:	3688
Filed:	September 28, 2007	Examiner:	Raquel Alvarez
Title:	SYSTEM AND METHOD FOR NETWORKED LOYALTY PROGRAM	Confirmation No.:	3132

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. § 1.322

Attn: Certificate of Correction Branch
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

Pursuant to 37 C.F.R. §1.322, Patentee hereby requests a Certificate of Correction be issued to correct errors noticed in the issued patent.

Applicants assert that there are errors in the Related U.S. Application Data (60) on the front page of the issued patent. This error was made by the Office. Applicants' Attorney refers to the Amendment to the Specification filed on September 28, 2007 (pg. 1).

Specifically, the front page of the patent under Related U.S. Application Data (60) should read:

This application is a Division of application No. 10/027,984, filed on Dec. 21, 2001, now Pat. No. 7,613,628, which is a continuation-in-part of 09/836,213, filed on Apr. 21, 2001, now Pat. No. 7,398,225, which claims priority to Provisional application No. 60/279,817, filed on Mar. 29, 2001.

If the Commissioner for Patents somehow determines it was not an Office error, The Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment, to Deposit Account No. **19-2814**. If there are any questions or unresolved issues, the undersigned would welcome a telephone call to the number shown below.

Respectfully submitted,

Dated: October 22, 2010 By: _____

Howard I. Sobelman
Reg. No. 39,038

SNELL & WILMER L.L.P.
400 E. Van Buren
One Arizona Center
Phoenix, Arizona 85004
Phone: 602-382-6228
Fax: 602-382-6070
Email: hsobelman@swlaw.com

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
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,813,955

APPLICATION NO.: 11/864,228

ISSUE DATE : 10/12/2010

INVENTOR(S) : Fauziah B. Ariff et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title page, section (60) Related U.S. Application Data, please delete "Division of application No. 10/027,984, filed on Dec. 21, 2001, now Pat. No. 7,613,628" and insert therefor --Division of application No. 10/027,984, filed on Dec. 21, 2001, now Pat. No. 7,613,628, which is a continuation-in-part of 09/836,213, filed on Apr. 21, 2001, now Pat. No. 7,398,225. Provisional application No. 60/279,817 filed on Mar. 29, 2001.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Howard I. Sobelman, Snell & Wilmer, L.L.P.
One Arizona Center, 400 East Van Buren
Phoenix, AZ 85004-2202

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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.

Amendments to the Specification:

On page 1, please delete paragraph [0001] and replace it with the following:

– This application is a divisional of U.S. Application No. 10/027,984, filed December 21, 2001, which is a Continuation-In-Part of U.S. Application No. 09/836,213, filed April 21, 2001, which claims priority to U.S. Provisional Application No. 60/279,817, filed March 29, 2001, which is incorporated herein by reference.--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

JAN 11 2011

OFFICE OF PETITIONS

In re Application of :
Robert A. Hasenbein et al :
Application No. 11/864,250 : DECISION GRANTING PETITION
Filed: September 28, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 09991-123002 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 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 November 8, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

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 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/24/12

TO SPE OF : ART UNIT: 2167

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/864,325 Patent No. 7,996,393

CofC mailroom date 2/13/12

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments: changes the scope of the claims.

JOHN COTTINGHAM
~~SUPERVISORY PATENT EXAMINER~~
TECHNOLOGY CENTER 2100

SPE

2167
Art Unit

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 3/1/2012
Patent No. : 7,996,393 B1
Serial No. : 11/864,325
Inventor(s) : Nanno et al.
Issue Date : August 9, 2011
Title : **KEYWORDS ASSOCIATED WITH DOCUMENT CATEGORIES**
File No. : **0026-0234**

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 errors in the claims, after further review, the decision of the Spe has determined that, "changes to the requested claims would change the scope of the claims". Therefore, no correction is in order here.

In view of the foregoing, your request is hereby denied.

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

HARRITY & HARRITY, LLP
11350 Random Hills Road
SUITE 600
FAIRFAX VA 22030

ECW

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120228

DATE : February 28, 2012

TO SPE OF : ART UNIT 2167

SUBJECT : Request for Certificate of Correction on Patent No.: 7,996,393

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☒ **Denied** State the reasons for denial below.

Comments:

Changes the scope of the claims.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WESTERMAN HATTORI DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

MAILED
APR 13 2012
OFFICE OF PETITIONS

In re Application of	:	
Katsumi Nochi et al	:	
Application No. 11/864,394	:	DECISION GRANTING PETITION
Filed: September 28, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 072199	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, April 12, 2012 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 13, 2012 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1736 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

MAR 03 2011

OFFICE OF PETITIONS

In re Application of :
Rofougaran et al. :
Application No. 11/864,441 : ON APPLICATION FOR
Filed: 09/28/2007 : PATENT TERM ADJUSTMENT
Attorney Docket No. 18775US01 :

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 January 26, 2011, which is being treated as a petition under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is 699 days, not 482 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek 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 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]

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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.

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) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

MAILED

MAY 24 2011

OFFICE OF PETITIONS

In re Application of :
Sebastian Schoenberg, et. al. :
Application No. 11/864,477 : DECISION ON PETITION
Filed: September 28, 2007 :
Attorney Docket No. 42390P24600 :

This is a decision on the petition, filed February 28, 2011, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of June 21, 2010, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before September 22, 2010. A Notice of Abandonment was mailed on December 27, 2010.

Petitioner states that a timely reply was timely submitted via certificate of facsimile transmission on November 22, 2010, which included the following papers: Fax Cover Sheet (1 page), RCE Transmittal (1 page submitted in duplicate) and Response to Office Action (8 pages). Petitioner has submitted a copy of the previously transmitted correspondence, which bears a certificate of facsimile transmission dated November 22, 2010, which would have rendered the reply timely if received[1].

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

[1] A two month extension of time in the amount of $490 has been charged to petitioner's deposit account, as authorized in the copy of the RCE filed on February 28, 2011.

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of June 21, 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 transmitted by facsimile on November 22, 2010.

This application is being referred to Technology Center Art Unit 2186 for appropriate action in the normal course of business on the reply received with petition.

Andrea Smith
Petitions Examiner
Office of Petitions

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.
11/864,500	09/28/2007	Mark Bischoff	3081.224US01	3593

24113 7590 04/15/2011

PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

EXAMINER	
PAIK, SANG YEOP	

ART UNIT	PAPER NUMBER
3742	

MAIL DATE	DELIVERY MODE
04/15/2011	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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110413

DATE : April 13, 2011

TO SPE OF : ART UNIT 3742

SUBJECT : Request for Certificate of Correction on Patent No.: 7863543

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:

/TU B HOANG/
Supervisory Patent Examiner, Art Unit 3742

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/864,525	09/28/2007	Lawrence Horowitz	SLN-0005	3630

28381 7590 09/26/2011

ARNOLD & PORTER LLP
ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON, DC 20004-1206

EXAMINER	
ZEMAN, MARY K	

ART UNIT	PAPER NUMBER
1631	

NOTIFICATION DATE	DELIVERY MODE
09/26/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

IP.Docketing@aporter.com

Petition to accept Color Drawings

The petition to accept color drawings, filed 9/9/08, is hereby DENIED. The petition fails to comply with 37 CFR 1.84 (a) (2) (iii), which requires an amendment to the specification to insert 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.

The petition has a box checked indicating that an amendment was intended, but no "language" followed the checkbox, therefore no amendment to the specification has been made.

Any inquiry concerning this communication should be directed to MARJORIE MORAN at telephone number (571)272-0720.

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.

/Marjorie Moran/

Supervisory Patent Examiner, Art Unit 1631

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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January 27, 2012

ARNOLD & PORTER LLP
ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON DC 20004-1206

Re Application of
HOROWITZ, LAWRENCE, ET AL
Application: **11/864525**
Filed: **09/28/2007**
Attorney Docket No: **SLN-0005**

: **DECISION ON PETITION**
: **ACCEPTANCE OF COLOR**
: **DRAWINGS**

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) September 29, 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

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CHEVRON CORPORATION
P.O. BOX 6006
SAN RAMON CA 94583-0806

MAILED

SEP 01 2011

OFFICE OF PETITIONS

In re Application of :
Chen, Cong-Yan :
Application No. 11/864,540 : ON PETITION
Filed: February 12, 2008 :
Attorney Docket No. T-6573 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 12, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This application is being referred to Technology Center AU 1774 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.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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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

MAILED

MAR 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Adam Binnie et al	:	
Application No. 11/864,554	:	DECISION ON PETITION
Filed: September 28, 2007	:	TO WITHDRAW
Attorney Docket No. BOBJ-123/01 304661-2421	:	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**.

The request was signed by William S. Galliani on behalf of all the practitioners of record and the practitioners associated with Customer Number 23419.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to assignee Business Objects Software LTD at the above address.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/864,554	09/28/2007	Adam Binnie	BOBJ-123/01 304661-2421

CONFIRMATION NO. 3679

83282
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

POWER OF ATTORNEY NOTICE

Date Mailed: 03/21/2011

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.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/864,554	09/28/2007	Adam Binnie	BOBJ-123/01 304661-2421

CONFIRMATION NO. 3679

83282
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

POA ACCEPTANCE LETTER

Date Mailed: 03/21/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/11/2011.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address : COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11/864,625	28 September, 2007	LAZARAVICH ET AL.	35700.1300

SNELL & WILMER L.L.P. (Main)
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX, AZ 85004-2202

EXAMINER	
DON LE	
ART UNIT	**PAPER**
2819	20111010

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Petition to correct inventorship filed 11/5/2010 is hereby approved.

/Don P Le/
Primary Examiner, Art Unit 2819
10/10/2011

UNITED STATES PATENT AND TRADEMARK OFFICE

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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SEP 13 2011

OFFICE OF PETITIONS

In re Application of	:	
Kent et al.	:	
Application No. 11/864638	:	ON APPLICATION FOR
Filing or 371(c) Date: 09/28/2007	:	RECONSIDERATION OF
Attorney Docket Number: 18375US02	:	PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 C.F.R. 1.705)," filed August 11, 2011. Applicants' request recalculation of the patent term adjustment calculation to 786 days, not 685 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction based upon an assertion that the Office erred in failing to calculate an adjustment of 101 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 failing to calculate an adjustment of 101 days is **DISMISSED**.

On August 10, 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 685 days.

On August 11, 2011, applicants timely submitted the instant application for patent term adjustment[1]. Applicants request that the Determination of Patent Term Adjustment be corrected from 685 days, as indicated on the Determination of PTA mailed August 10, 2011, to an adjustment of 786 days. Applicants aver that the Office erred in failing to calculate an adjustment of 101 days pursuant to 37 CFR 1.702(e), in connection with the filing of a Notice of Appeal and subsequent mailing of a Notice of Allowance. Petitioner acknowledges that the current rule does not explicitly provide a patent term adjustment in this situation. Petition at p.3. Petitioner, however, cites to proposed rules that would allow for a patent term adjustment in this situation. See, Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements, 76 Fed. Reg. 18990 (April 6, 2011).

[1] PALM records show that the present petition precedes payment of the Issue Fee.

Petitioner's arguments have been carefully considered. As stated in the Notice of proposed rulemaking,

> The patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) and the patent term extension provisions of the Uruguay Round Agreements Act (URAA) each provide for patent term extension or adjustment if the issuance of the patent was delayed due to appellate review by the Board of Patent Appeals and Interferences (BPAI) or by a Federal court and the patent was issued pursuant to or under a decision in the review reversing an adverse determination of patentability. (Emphasis added).

Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements, 76 Fed. Reg. 18990 (April 6, 2011

The current statute and rules of practice do not provide for an adjustment of the patent term in this situation. Petitioner acknowledges that the current rule does not explicitly provide a patent term adjustment in this situation. The petition is therefore not grantable.

However, 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.

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance remains 685 days, subject to any terminal disclaimer.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent, including any request as it relates to the Office's failure to issue the patent within 3 years of the filing date, must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent. The patent term adjustment

indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to attorney Derek Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

OCT 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Alexei Gorokhov, et al.	:	
Application No. 11/864,644	:	ON PETITION
Filed: September 28, 2007	:	
Attorney Docket No. 070054	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 9, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 10, 2010. The Notice of Abandonment was mailed August 25, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 2471for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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BUSKOP LAW GROUP, P.C.
4511 DACOMA STREET
HOUSTON, TX 77092

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Application :
Roula Nassar :
Application No. 11/864,646 :
Filed: September 28, 2007 :
Attorney Docket No. 7108.02 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 1, 2011.

The request is **DISMISSED**.

A review of the file record indicates that Customer Number 29637, Buskop Law Group, P.C., was never appointed power of attorney in this patent application and therefore, was only designated as the correspondence address of record. As a result, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

A new power of attorney was filed on February 25, 2011, therefore all future communications from the Office will continue to be directed to the below-listed address of record until otherwise notified by applicant.

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

cc: MICHAEL L. PARKS
PARKS & ASSOCIATES, PC
3262 WESTHEIMER ROAD, #116
HOUSTON, TX 77098

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 29, 2010

TO SPE OF : ART UNIT 2429
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/864663 Patent No.: 7754621

CofC mailroom date: 12-15-10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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: In Col. 7, line 62, please change "i.e.," to --i.e.,--.
should not be entered. It looks as those nothing is changed.
Every thing else is OK to enter.

/Zandra Smith/ 2822

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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INTERNATIONAL IP LAW GROUP, P.L.L.C.
C/O CPA GLOBAL
P.O. BOX 52050
MINNEAPOLIS MN 55402

MAILED

APR 02 2012

OFFICE OF PETITIONS

In re Application of :
Shiva Aditham et al. :
Application No. 11/864,781 : ON PETITION
Filed: September 28, 2007 :
Attorney Docket No.P23481 INTC:1004 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 13, 2012, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on July 1, 2011 for failure to timely file a reply to the Final Office action mailed March 30, 2011 which set a three (3) month shortened statutory period for reply. Accordingly, a Notice of Abandonment was mailed November 1, 2011.

The Notice of Appeal filed March 13, 2012, with the instant petition, in response to the Final Office Action, has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

This matter is being referred to Technology Center 2186 for processing of the Notice of Appeal.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application :
Ahmadreza Rofougaran :
Application No. 11/864,845 : DECISION ON APPLICATION
Filed: September 28, 2007 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 18783US01 :

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705) filed October 26, 2010. Applicant requests that the determination of patent term adjustment be corrected from 510 to 636 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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COCHRAN FREUND & YOUNG LLC
2026 CARIBOU DR
SUITE 201
FORT COLLINS CO 80525

MAILED

OCT 13 2010

OFFICE OF PETITIONS

In re Application of :
Dipen N. Sinha :
Application No. 11/864,858 : DECISION ON PETITION
Filed: September 28, 2007 :
Attorney Docket No. LANS.03US01; S-109,072 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 24, 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 17, 2010, as required by the Notice of Allowance and Fee(s) Due mailed May 17, 2010. Accordingly, the date of abandonment of this application is August 18, 2010. A 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 $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 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.

Additionally, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. 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 the Office of Data Management for processing into a patent.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: MEREDITH H. SCHOENFELD
LOS ALAMOS NATIONAL LABORATORY
LC/IP, MS A187
LOS ALAMOS, NM 87545

UNITED STATES PATENT AND TRADEMARK OFFICE

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McDermott Will & Emery LLP
600 13th Street, NW
Washington DC 20005-3096

MAILED

MAR 17 2011

OFFICE OF PETITIONS

In re Application of	:	
Mou-Shiung Lin, et al.	:	
Application No. 11/864,917	:	DECISION GRANTING PETITION
Filed: September 29, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 085027-0290	:	

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 February 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 should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2822 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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600 13th Street, NW
Washington DC 20005-3096

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MAR 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Mou-Shiung Lin, et al.	:	
Application No. 11/864,927	:	DECISION GRANTING PETITION
Filed: September 29, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 085027-0292	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, March 18, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 3, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 822 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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Alexandria, VA 22313-1450
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JIANQ CHYUN INTELLECTUAL PROPERTY OFFICE
7 FLOOR-1, NO, 100
ROOSEVELT ROAD, SECTION 2
TAIPEI 100 TW TAIWAN

MAILED
FEB 02 2012
OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	
Application No. 11/864992	:	DECISION
Filing or 371(c) Date: 09/29/2007	:	ON PETITION
Patent No.: 8060796	:	
Issue Date: 11/15/2011	:	
Attorney Docket Number: 23698-US-PA	:	

This is a decision on the petition under 37 CFR 3.81(b), filed December 22, 2011, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect that INDUSTRIAL TECHNOLOGY RESEARCH INSTITUTE, and NATIONAL CHIAO TUNG UNIVERSITY, are the assignees of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/864,998	09/30/2007	Benjamin T. Chorpening	S-110,267	4433

31970 7590 02/15/2011

UNITED STATES DEPARTMENT OF ENERGY
1000 INDEPENDENCE AVENUE, S.W.
ATTN: GC-62 (CHI), MS 6F-067
WASHINGTON, DC 20585-0162

EXAMINER	
PEREIRO, JORGE ANDRES	
ART UNIT	**PAPER NUMBER**
3743	

NOTIFICATION DATE	DELIVERY MODE
02/15/2011	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):

betty.winchester@hq.doe.gov
katherine.baldwin@hq.doe.gov

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UNITED STATES DEPARTMENT OF ENERGY
1000 INDEPENDENCE AVENUE, S.W.
ATTN: GC-62 (CHI), MS 6F-067
WASHINGTON DC 20585-0162

In re Application of: Chorpening, Benjamin, et al
Appl. No.: 11/864998
Filed: 9/30/2007

DECISION ON PETITION UNDER 37 C.F.R. ∋ 1.84(a)(2) TO ACCEPT COLOR DRAWINGS

For: Time varying voltage combustion and control diagnostic sensor

This is a decision on the petition under 37 C.F.R. ∋ 1.84(a)(2), filed September 30, 2007, requesting acceptance of color drawings. The petition requests that color photographs for Fig. 1, which is in color, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. ∋ 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. ∋ 1.17(h), three (3) sets of the color drawings in question, a black and white photocopy of said drawings, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was filed without the required black and white photocopy of Fig. 5 and the required specific language as stated above in the brief description of drawings. Moreover, it is possible for a drawing to show the necessary details to one of ordinary skill in the art.

Applicants submission does not meet all the criteria set out above. Accordingly, the petition is **DENIED**.

/Kenneth Rinehart/

Kenneth Rinehart
S.P.E.
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PATENT DEPT - INTUITIVE SURGICAL OPERATIONS
1266 KIFER RD BLDG 101
SUNNYVALE CA 94086

In re Application of
ZHAO, WENYI et al.
Application No.: 11/865,015
Filing or 371(c) Date: September 30, 2007
Attorney Docket Number: ISRG00662/US

FEB 28 2012

DECISION ON
PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on February 16, 2012.

This petition is **GRANTED**.

The application was inadvertently abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance mailed October 27, 2011 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on February 9, 2012.

Petitioner states that the issue fee transmittal and payment were timely filed via the USPTO on January 25, 2012. Petitioner submitted a copy of the original submission which included a properly completed Certificate of Mailing/Transmission. As authorized, the issue fee of $1740.00, publication fee of $300.00 and 2 advance copies was charged to Deposit Account.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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COCHRAN FREUND & YOUNG LLC
2026 CARIBOU DR
SUITE 201
FORT COLLINS CO 80525

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of :
Dipen N. SINHA :
Application No. 11/865,042 : DECISION ON PETITION
Filed: September 30, 2007 :
Attorney Docket No. LANS.04US01; S-109,074 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 02, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 12, 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) was obtained. Accordingly, the date of abandonment of this application is October 13, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of May 12, 2010 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2856 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.

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):	Patent Number (if applicable):
11/865,126	
First Named Inventor:	**Title of Invention:**
HIROSHI INOUE	GAS TURBINE COMBUSTOR AND METHOD FOR SUPPLYING FUEL TO THE SAME

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 June 1, 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, PC
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

MAILED

JUN 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Inoue et al.	:	
Application No. 11/865,126	:	DECISION ON PETITION
Filed: October 1, 2007	:	
Attorney Docket No. KAS-6014	:	

This is a decision on the request filed June 1, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on February 17, 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 3741 for re-mailing the Office action of February 17, 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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JEROME D. JACKSON
(JACKSON PATENT LAW OFFICE)
211 N. UNION STREET, SUITE 100
ALEXANDRIA VA 22314

MAILED
JAN 19 2011
OFFICE OF PETITIONS

In re Application of :
RANDAZZA, Joseph R. :
Application No. 11/865,128 : DECISION ON PETITION
Filed: October 01, 2007 : TO WITHDRAW
Attorney Docket No. **167.016-U** : 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 17, 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 Jerome D. Jackson on behalf of all attorneys of record who are associated with customer No. 38245. 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 Joseph R. Randazza at the address indicated below.

There is an outstanding Office action mailed October 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: **JOSEPH R. RANDAZZA**
NATIONAL PAYMENT CARD
4171 W. HILLSBORO BLVD.
SUITE 5
COCONUT CREEK, FL 33073

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SEP 26 2011

OFFICE OF PETITIONS

WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON VA 20190

In re Application of :
RANDAZZA, et al :
Application No. 11/865,128 : ON PETITION
Filed: October 1, 2007 :
Attorney Docket No. 12180006AA :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 22, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 8, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is January 9, 2011. A Notice of Abandonment was mailed June 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 a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on August 22, 2011, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account. No. 50-2041.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center 3628 for further processing in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

MAILED
APR 29 2011
OFFICE OF PETITIONS

In re Application of
Simon Edward Philips
Application No. 11/865,209
Filed: October 1, 2007
Attorney Docket No.: 070457.2115

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed March 1, 2011.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before February 10, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed November 10, 2010, which set a statutory period for reply of three (3) months. A Notice of Abandonment was mailed on February 25, 2011. On March 1, 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 payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be 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 instant petition.

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/865,246	10/01/2007	Hiroshi MINATOGAWA	Q103920	4926

7590 05/25/2011

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER	
AUGUSTIN, MARCELLUS	
ART UNIT	**PAPER NUMBER**
2625	
NOTIFICATION DATE	**DELIVERY MODE**
05/25/2011	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

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MAY 13 2011

OFFICE OF PETITIONS

GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
c/o CPA Global
P. O. BOX 52050
MINNEAPOLIS, MN 55402

In re Application of :
Houssam Jomaa :
Application No. 11/865,261 : ON PETITION
Filed: October 1, 2007 :
Attorney Docket No. P26138 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 20, 2011, to revive the above-identified application.

The application became abandoned for failure to file a proper reply to the final Office action mailed on April 19, 2010. A Notice of Abandonment was mailed December 10, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) along with the $810 fee and the submission under 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

Since the address given in the present petition differs from the correspondence address of record, a courtesy copy of this decision is being mailed to the address given in the petition. Thereafter, all future communications from the Office will be mailed to the address of record until otherwise instructed.

This application file is being referred to Technology Center Art Unit 3729 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Paul J. Kroon, Jr.
Grossman, Tucker, Perreault & Pfleger, PLLC
55 S. Commercial Street
Manchester, NH 03101

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BRINKS HOFER GILSON & LIONE / CME
P.O. BOX 10395
CHICAGO IL 60610

MAILED

NOV 26 2010

OFFICE OF PETITIONS

In re Patent No. 7,818,248
Neal Brady et al.
Issue Date: October 19, 2010
Application No. 11/865,534
Filed: October 1, 2007
Attorney Docket No. 4672/651

: DECISION ON REQUEST
: FOR RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT", filed October 19, 2010. Patentee requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected to at least 165 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 one hundred sixty-five **(165)** days.

On October 19, 2010 the application matured into U.S. Patent No. 7,818,248 with a revised PTA thereon of 134 days. The instant application for Patent Term Adjustment asserts that the correct number of days of PTA is one hundred sixty-five (165) days. Patentee disputes the reduction of thirty-one (31) days attributed to patentee for the submission of an Information Disclosure Statement on July 27, 2009

The Office initially determined a patent term adjustment of one hundred thirty-four (134) days based on an adjustment for PTO delay of two hundred six (206) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and the reduction of seventy-two (41 + 31) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704. The reduction of 31 days is at issue.

The reduction of 31 days has been found to be incorrect. A review of the application file, as stated by Patentee, supports a conclusion that there was not an Information Disclosure Statement filed in this application on July 27, 2009.

In view thereof, the patent term adjustment indicated in the patent should have been one hundred sixty-five **(165)** days.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one hundred sixty-five (165) days**.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,818,248 B2

DATED : October 19, 2010

INVENTOR(S) : Neal Brady

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 (134) days

Delete the phrase "by 134 days" and insert – by 165 days--

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K&L GATES LLP
P.O. BOX 1135
CHICAGO, IL 60690-1135

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Prisco et al.	:	
Application No. 11/865,577	:	DECISION ON PETITION
Filed: October 1, 2007	:	
Attorney Docket No. 3712044-01805	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b) to revive the above-identified application filed, January 11, 2011. This is also a decision under 37 CFR 1.182, filed January 11, 2011, to expedite the petition under 37 CFR 1.137(b).

The petition under 1.137(b) is **GRANTED**.

The petition under 1.182 to expedite is **GRANTED**.

The application became abandoned for failure to submit corrected formal drawings in a timely manner in reply to the Notice of Allowability, mailed September 20, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on December 21, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form replacement drawings, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely submit replacement drawings as required by the Notice of Allowability is accepted as being unintentionally delayed.

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

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	11865592
Filing Date	01-Oct-2007
First Named Inventor	Ian Bennett
Art Unit	2626
Examiner Name	MARTIN LERNER
Attorney Docket Number	PHO99001C5D1
Title	SPEECH RECOGNITION SYSTEM INTERACTIVE AGENT

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 52447

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	Ian M. Bennett
Address	634 Georgia Ave.
City	Palo Alto
State	CA
Postal Code	94306
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Andrew McAleavey/
Name	Andrew McAleavey
Registration Number	50535

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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Decision Date : April 17, 2012

In re Application of :

Ian Bennett

Application No : 11865592

Filed : 01-Oct-2007

Attorney Docket No : PHO99001C5D1

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed April 17, 2012

The request is **APPROVED.**

The request was signed by Andrew McAleavey (registration no. 50535) on behalf of all attorneys/agents associated with Customer Number 52447 . All attorneys/agents associated with Cusotmer Number 52447 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	Ian M. Bennett
Name2	
Address 1	634 Georgia Ave.
Address 2	
City	Palo Alto
State	CA
Postal Code	94306
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 : 9-14-11

TO SPE OF : ART UNIT 2183

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/865,624 Patent No.: 7941641

CofC mailroom date: 9-7-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Check drawings

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ennis Young

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Drawing changes do not affect scope or patentability.

/Eddie P Chan/ SPE, AU2183

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON P.C. (SV)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Application of :
Kim et al. : DECISION ON APPLICATION
Application Number: 11/865,663 : FOR PATENT TERM ADJUSTMENT
Filing Date: 10/01/2007 :
Attorney Docket Number: 24622-0135001 :

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed June 6, 2011. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. § 154(b) be increased by 30 days from 644 days to 674 days.

The application for patent term adjustment is **DISMISSED.**

On March 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 to date is 644 days. The subject application for patent term adjustment was timely filed on June 6, 2011.[1]

Applicant disputes the reduction of 30 days for the filing of a supplemental response in the form of an Information Disclosure Statement (IDS) on January 27, 2011, 30 days after the filing of a reply on December 28, 2010.

Applicant asserts that the IDS contains the statement in accordance with 37 CFR 1.97(e). Further, the present petition is accompanied by a statement under 37 CFR 1.704(d). Applicant asserts that the submission of the IDS on January 27, 2011,

[1] PALM records show that the Issue Fee was received on June 6, 2011.

should not be considered a failure to engage in reasonable efforts to conclude prosecution of the application.

37 CFR 1.704(c)(8) states:

> 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: 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.

37 CFR 1.704(d) states:

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

Applicant's argument that the 30 day period of reduction for applicant delay should be removed is unavailing.

It is undisputed that applicant submitted an IDS on January 27, 2011, after filing an initial response to the non-final Office action on December 28, 2010. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed January 27, 2011, reveals that applicant did not include a proper statement under

37 CFR 1.704(d). Specifically, the statement under 37 CFR 1.704(d) provided by applicants reads: "I, the undersigned, hereby certify that each item of information contained in this statement was first cited in a communication from a foreign patent office in a counterpart foreign application, **the communication being dated December 29, 2010, which is not more than three months prior to the filing of this statement.**" (Emphasis added).

Lastly, there is no provision in the rules for the Office to accept a statement under § 1.704(d) which did not accompany (*i.e.*, was not filed contemporaneously with) the IDS. Accordingly, the reduction of 30 days for applicant delay is proper and will not be removed.

In view thereof, no adjustment will be made to the determination of patent term adjustment at the time of the mailing of the notice of allowance.

The $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

Applicant is reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicant approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAMES T. STRUCK
BA, BS, AA, MLIS
APT. 108B
7333 N. RIDGE BLVD.
CHICAGO IL 60845

MAILED

MAR 19 2012

OFFICE OF PETITIONS

In re Application of :
Struck :
Application No. 11/865,730 : DECISION
Filed: 2 October, 2007 :
Attorney Docket No. (None) :

This is a decision on the papers considered as petition filed on 24 January, 2012, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision or any petition in the alternative is to be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

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 and timeliness requirements for relief under 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).

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(I) as to a petition pursuant to 37 C.F.R. §1.181 and the requirements under the Rule.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 24 March, 2010, with reply due under absent an extension of time on or before 24 June, 2010.

On 26 April, 2010, Petitioner filed an amendment after final, which Petitioner knew or should have known was not as of right and not a proper reply[1] if it did not *prima facie* place the application in condition for allowance. On 9 May, 2010, Petitioner filed drawings. The Examiner refused to enter the after-final amendment, and on 19 November, 2010, the Examiner mailed an Advisory Action.

The application went abandoned by operation of law after midnight 24 June, 2010.

The Office mailed a Notice of Abandonment on 7 January, 2011.

On 24 January, 2012, Petitioner filed a petition pursuant to 37 C.F.R. §1.181, but untimely under the Rule, and in a one page submission Petitioner made no showing under the Rule and consistent with the in the guidance in the Commentary at MPEP §711.03(c)(I).

Petitioners always are directed to in the guidance in the Commentary at MPEP §711.03(c)(I), which provides in pertinent part:

***

> 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.

[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal with fee, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

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] (Emphasis supplied.)

***

Petitioner's reply to the Notice of Abandonment is late under the rule (37 C.F.R. §1.181), and Petitioner is reminded of the guidance set forth in the Commentary at MPEP §711.03(c) (in pertinent part):

***

C.Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. §1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. §1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. §1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

***

3.Utility and Plant Applications Filed on or After May 29, 2000

In utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should **not** be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically reduced under the provisions of 37 C.F.R. §1.704(c)(4) in applications subject to the patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, and if applicant does not receive the notice of abandonment, any patent term adjustment is reduced under the provisions of 37 C.F.R. §1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application.

---

[2] *See*: MPEP §711.03(c) (I)(A).

> Where the record indicates that the applicant intentionally delayed the filing of a petition to withdraw the holding of abandonment, the Office may simply dismiss the petition as untimely (37 C.F.R. §1.181(f)) solely on the basis of such intentional delay in taking action in the application without further addressing the merits of the petition. Obviously, intentional delay in seeking the revival of an abandoned application precludes relief under 37 C.F.R. §1.137(a) or (b) (***).
>
> ***

On any renewed petition, Petitioner must comply with the required showing expressly set forth in the guidance in the Commentary at MPEP §711.03(c)(I)—as highlighted above for Petitioner's reference.

However, Petitioner may not be able to satisfy those requirements.

In such case, Petitioner may alternatively chose to present a petition pursuant to 37 C.F.R. §1.137(b) with fee, reply, and statement of unintentional delay. (Applicants/Petitioners always are cautioned that the conditions of their failure to reply timely and properly to an Office action, including a decision on petition, may be considered *indicia* of intentional delay.)

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 are reminded to 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]

Petitioner is requested to review the requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I), and then seek to satisfy those requirements. Alternatively, Petitioner may file a petition to revive pursuant to the regulations at 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.

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).

---

[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).

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 not to have made the showing required.

CONCLUSION

Accordingly, the petition under 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 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)

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.)

Petitioner is cautioned that Petitioner's failure to properly and promptly file a petition to revive the application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b) may be considered indicia of delay that is other than unintentional.

For information on a petition to revive pursuant to 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 provide therewith the requirements of the petition (the petition and the petition fee, the reply, 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 was unintentional."and a terminal disclaimer and fee where appropriate. (The statement is in the form available online:
http://www.uspto.gov/web/forms/sb0064.pdf .)

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/07/11

TO SPE OF : ART UNIT: 2114 BADERMAN SCOTT T (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/865734 Patent No.: 7853853

C of C Mailroom date: 02/14/11

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

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: _____

SCOTT BADERMAN
~~SUPERVISORY PATENT EXAMINER~~
SPE

2112
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

MAILED
FEB 01 2011
OFFICE OF PETITIONS

In re Application of :
Philips :
Application No. 11/865,830 : DECISION
Filed/Deposited: 2 October, 2007 :
Attorney Docket No. 070457.2117 :

This is a decision on the petition filed on 27 September, 2010, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the non-final Office action mailed on 23 February, 2010, with reply due absent extension of time on or before 23 May, 2010.

The application went abandoned after midnight 23 May, 2010.

The Office mailed the Notice of Abandonment on 21 September, 2010.

On 27 September, 2010, Petitioner filed a petition pursuant to 37 C.F.R. §1.137(b), with fee, a reply in the form of an amendment, and made a statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 2876 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal 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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HAMRE, SCHUMANN, MUELLER & LARSON P.C.
P.O. BOX 2902
MINNEAPOLIS MN 55402-0902

MAILED
JAN 30 2012
OFFICE OF PETITIONS

In re Application of :
Hideki Kitaura et al. :
Application No. 11/865,902 : DECISION ON PETITION
Filed: October 2, 2007 :
Attorney Docket No. 14434.148US01 :

This is a decision on the Petition Under 37 CFR 1.182 to Withdraw Recorded Terminal Disclaimer filed, January 18, 2012, which is being treated as a request under 37 CFR 1.182 that the acceptance of a terminal disclaimer filed August 29, 2011 be withdrawn.

The petition for withdrawal of a terminal disclaimer is **GRANTED**.

The non-final Office action of June 3, 2011 included a non-statutory double patenting rejection based on co-pending application SN 10/095,894. In response thereto, applicants filed a terminal disclaimer on August 29, 2011. Petitioner requests that the terminal disclaimer be withdrawn as it is believed the examiner should have based the rejection on SN **12**/095,894 not the stated application **10**/095,894.

The examiner of record has indicated to the undersigned that the facts stated above are correct and that a terminal disclaimer for application SN 10/095,894 is not needed. Applicant has filed a terminal disclaimer for 12/095,894 concurrent with the instant petition.

Telephone inquiries related to this decision should be addressed 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

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of :
Takashi Miyazawa :
Application No. 11/865,921 : DECISION ON PETITION
Filed: October 2, 2007 : TO WITHDRAW
Attorney Docket No. **134170** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed February 15, 2011.

The request is **NOT APPROVED**.

A review of the file record indicates that Liam J. McDowell does not have power of attorney or was ever given power of attorney in the above-identified application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Briscoe, Kurt G.
Norris McLaughlin & Marcus, PA
875 Third Avenue, 8th Floor
New York NY 10022

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of :
James Gray :
Application No. 11/865,958 : DECISION ON PETITION
Filed: October 2, 2007 :
Attorney Docket No. 106841-2 KGB :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 1, 2010, 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 filed within two (2) months of the Notice of Appeal filed April 23, 2010. A three month extension of time under the provisions of 37 CFR 1.136(a) was obtained. The appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 41.37(b). As no claim was allowed, the application became abandoned on September 24, 2010. See MPEP 1215.04.

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. Accordingly, the filing of a continuing application under 37 CFR 1.53(b) is accepted as being unintentionally delayed.

The application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of a continuing application under 37 CFR 1.53(b).

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

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GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON DC 20036-2680

MAILED

APR 09 2012

OFFICE OF PETITIONS

In re Application of :
Yoshihiko Ushiyama et al :
Application No. 11/865,959 : DECISION GRANTING PETITION
Filed: October 2, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SE-US075238 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, April 5, 2012 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 14, 2012 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1712 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

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

MAILED

OCT 29 2010

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Steven S. Watanabe et al :
Application No. 11/866,011 :
Filed: October 2, 2007 :
Attorney Docket No. 112056-0171C1

This is a decision on the petition, filed October 29, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 28, 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 2447 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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LOCKE LORD BISSELL & LIDDELL LLP
600 TRAVIS STREET SUITE 2800
HOUSTON, TX 77002-3095

MAILED

JUN 28 2011

OFFICE OF PETITIONS

In re Application of :
Joseph B, Mc Cabe :
Application No. 11/866,085 : ON PETITION
Filed: October 2, 2007 :
Attorney Docket No. 021996-00002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 10 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 timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 23, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(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 November 24, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3679 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : October 6,2011

In re Application of :

Eldad Zeira

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11866086

Filed : 02-Oct-2007

Attorney Docket No : IHSP-0657/ITC-2-1390.01

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed October 6,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid 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 2112 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	11866086
Filing Date	02-Oct-2007
First Named Inventor	Eldad Zeira
Art Unit	2112
Examiner Name	STEPHEN BAKER
Attorney Docket Number	IHSP-0657/ITC-2-1390.01
Title	METHOD AND APPARATUS FOR ENCODING CHANNEL QUALITY INDICATOR AND PRECODING CONTROL INFORMATION BITS

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	/Lori Anne D. Swanson/
Name	Lori Anne D. Swanson
Registration Number	59048

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P.O. Box 1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application of :
Kwan et al. :
Application No. 11/866,098 : ON APPLICATION FOR
Filed: October 2, 2007 : PATENT TERM ADJUSTMENT
Attorney Docket No. 17989US01 :

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 August 23, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is five hundred fifty-six (556) days, not four hundred fifty-five (455) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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[1] For example, if an applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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AUSTIN TX 78701

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OCT 26 2010

OFFICE OF PETITIONS

In re Application of :
Rakesh K. Srivastava et al. : DECISION REFUSING STATUS
Application No. 11/866,162 : ON PETITION
Filed: October 2, 2007 :
Attorney Docket No. UTSN:029US/10705805 :

This is a decision on the petitions filed July 7, 2010 which are being collectively being treated as (1) a request under 37 CFR 1.48(a) to amend the inventive entity by the addition of Alexander MacKerell , (2) a petition under 37 CFR 1.47(a) to accept this application notwithstanding the absence of the signature of a co-inventor, and (3) under 37 CFR 1.183 requesting waiver of the requirement under 37 CFR 1.64 that all the originally signing inventors also execute the supplemental oath or declaration filed July 7, 2010.

The petitions are **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR §§1.47(a), 1.183 and 1.48(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration and a statement of lack of deceptive intent executed by the currently non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors.

In those instances wherein a request under 37 CFR 1.48(a) and a petition under 37 CFR 1.47 have both been filed in an application, the Office of Petitions may first issue a decision on the request under 37 CFR 1.48(a) so as to determine the appropriate oath or declaration under 37 CFR 1.63 required for the petition under 37 CFR 1.47. In those situations where, as here, a previously signing inventor refuses to execute a supplemental oath or declaration under 37 CFR 1.64, waiver under 37 CFR 1.183 of the requirement for an additional signature would be appropriate upon a showing of such refusal or inability

to reach the inventor. Every existing assignee of the original named inventors must give its consent to the requested correction. Where there is more than one assignee giving its consent, the extent of that interest (percentage) should be shown. Where no assignment has been executed by the inventors, or if deletion of a refusing inventor is requested, waiver will not be granted absent unequivocal support for the correction sought. Petitions under 37 CFR 1.47 are not applicable to the requirement for signatures from each originally named inventor on the supplemental oath or declaration.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

> (1) A request to correct the inventorship that sets forth the desired inventorship change;
>
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
>
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
>
> (4) The processing fee set forth in § 1.17(i); and
>
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b).

The request under 37 CFR 1.48(a) lacks compliance with item (3).

The petition requesting waiver under 37 CFR 1.183 of the requirement in 37 CFR 1.64 for reexecution of the supplemental oath or declaration by Rakesh Srivastava and Sharmila Shankar who signed the original oath or declaration, cannot be granted at this time.

The fee for the petition under 37 CFR 1.183 has been charged to petitioner's deposit account.

On very infrequent occasions, the requirements of 37 CFR 1.64 have been waived upon the filing of a request and the fee set forth in § 1.17(f) for a petition under 37 CFR 1.183 (along with the supplemental oath or declaration) to permit the acceptance of that supplemental oath or declaration signed by less than all the originally signing named inventors. 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. In such circumstances, the USPTO will consider a petition under 37 CFR 1.183 requesting waiver of the requirement of 37 CFR 1.64 that each of the actual inventors execute the supplemental oath or declaration, particularly where assignee consent is given to the requested correction. Absent assignee consent, the petition under 37 CFR 1.183 requesting waiver of the reexecution of the oath or declaration will be evaluated as to whether the nonsigning inventor was actually given the opportunity to reexecute the oath or declaration, or whether the nonsigning inventor could not be reached. In essence, petitioner must show that the inability to again obtain the signature statement from originally signing inventors Rakesh Srivastava and Sharmila Shankar is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond his control.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, 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 set forth in § 1.17(g); and (4) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (4) set forth above.

As to item (1), rule 47 applicant must demonstrate with documented evidence that an inventor refuses to join in the application after having been presented with the application papers (specification, claims, drawings and oath or declaration). There is no indication herein that joint inventors Rakesh Srivastava and Sharmila Shankar were presented with a copy of the complete application papers for this application. From the evidence of record, it only appears that the joint inventors were presented with a copy of the declaration. If the joint inventors were not presented with a copy of the application papers for this application, then the joint inventors could not attest that they have "reviewed and understand the application papers" and could not execute the declaration they were requested to sign.

Further, the applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor. *See* MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate non-signing inventors Rakesh Srivastava and Sharmila Shankar, such that the declaration can be accepted under 37 CFR 1.47(a). Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor.

Petitioner has not demonstrated that all efforts were expended in trying to locate inventors non-signing Rakesh Srivastava and Sharmila Shankar. In this regard, petitioner should, at the very least, conduct a search of the regional or national registry(s). The results of such search should be made in any future petition for reconsideration. *See* MPEP 409.03(d). Additionally, petitioner should state whether he has access to inventors Rakesh Srivastava and Sharmila Shankar's personnel records and, if so, what does inspection of the records reveal as to a current address, forwarding address, or an address of the nearest living relative? What does inspection of the phone directories for those address locations reveal? Petitioner should mail correspondence to the inventor's last known address, return receipt and/or forwarding address requested. If a forwarding address is provided, petitioner should then mail a complete copy of the application papers (specification, claims, drawings, oath, etc.) to Rakesh Srivastava and Sharmila Shankar's address, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that the inventor cannot be reached after diligent effort or has refused to join in the application. **The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein and should be accompanied by documentary evidence in support of the statement of facts.** It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

As to item (4), there is no specific statement by petitioner as to the last known address for Rakesh Srivastava and Sharmila Shankar.

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:
U. S. Patent and Trademark Office
Customer Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries should be directed to 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
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Alexandria, VA 22313-1450
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DEC 15 2010

OFFICE OF PETITIONS

In re Application of:
Rakesh K. Srivastava et al.
Application No. 11/866,162
Filed: October 2, 2007
Attorney Docket No. UTSN:029US
/10705805

PETITION DECISION

This is a decision on the renewed petition filed December 8, 2010, which is being treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.64 that each of the actual inventors execute the oath or declaration in the application and a decision on the petition under 37 CFR 1.48(a).

The petition under 37 CFR 1.183 is **Granted**.

The petition under 37 CFR 1.48(a) is **Granted**.

As to the petition under 37 CFR 1.183:

Petitioner states that two of the originally listed inventors, Rakesh Srivastava and Sharmila Shankar, refuse to sign a required supplemental 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).

The petition adequately shows Srivastava and Shankar are refusing to execute the required supplemental declaration.

For this reason, the petition under 37 CFR 1.183 is granted.

As to the petition under 37 CFR 1.48(a):

In view of the grant of the petition under 37 CFR 1.183, 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 Alexander MacKerell.

Office PALM records have been corrected to reflect the correct inventorship of the application. A corrected Filing Receipt is enclosed.

The application is being forwarded to Technology Center Art Unit 1628.

Telephone inquiries concerning this matter should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
11/866,162	10/02/2007	1628	755	UTSN:029US/10705805	25	3

CONFIRMATION NO. 6638

CORRECTED FILING RECEIPT

32425
FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

Date Mailed: 12/16/2010

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)

Rakesh K. Srivastava, Tyler, TX;
Sharmila Shankar, Tyler, TX;
Alexander D. MacKerell JR., Baltimore, MD;

Power of Attorney: The patent practitioners associated with Customer Number 32425

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/887,783 02/01/2007

Foreign Applications

If Required, Foreign Filing License Granted: 12/15/2010

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/866,162**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

METHODS AND COMPOSITIONS OF TRAIL-DEATH RECEPTOR AGONISTS/ACTIVATORS

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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FULBRIGHT & JAWORSKI, LLP
98 SAN JACINTO BOULEVARD
SUITE 1100
AUSTIN, TX 78701-4255

MAILED

AUG 31 2011

OFFICE OF PETITIONS

In re Patent No. 7,915,245 :
Issue Date: March 29, 2011 :
Application No. 11/866,162 : ON PETITION
Filed: October 2, 2007 :
Attorney Docket No. UTSN:029US/10705805 :

This is a decision on the petition filed July 27, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the April M. Wise at (571) 272-1642. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/866,167	10/02/2007	Masayuki URABE	MP1313	6647

45641 7590 02/25/2011

THE LAW OFFICES OF ANDREW D. FORTNEY, PH.D., P.C.
215 W. FALLBROOK AVENUE
SUITE 203
FRESNO, CA 93711

EXAMINER	
BANSAL, GURTEJ	

ART UNIT	PAPER NUMBER
2189	

MAIL DATE	DELIVERY MODE
02/25/2011	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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THE LAW OFFICES OF ANDREW D. FORTNEY, PH.D., P.C.
215 W. FALLBROOK AVENUE
SUITE 203
FRESNO CA 93711

In re Application of: Masayuki URABE
Application No. 11/866,167
Filed: October 2, 2007
Atty Docket No.: MP1313
For: FLASH MEMORY CONTROL INTERFACE

DECISION ON PETITION TO WITHDRAW THE FINALITY OF AN OFFICE ACTION

This is a decision on applicant's petition under 37 C.F.R. §1.181, filed on October 27, 2010, requesting withdrawal of the Objection to Specification under 37 CFR 1.132 in the Non-Final office action mailed on July 29, 2010.

The petition is **DISMISSED.**

Applicable Prosecution History

October 2, 2007	Original Application filed.
October 15, 2009	Examiner issued a FAOM (non-final Office action), rejecting all claims.
January 13, 2010	Applicant filed a response to the non-final action above, including amendments to some of the claims.
March 24, 2010	Examiner mailed final action, including a rejection for claims 1-13 under 35 USC 112 First paragraph as failing to comply with the written description requirement.
June 15, 2010	RCE filed with amendments to claims, and also amendment to Paragraph 46 of Specification to overcome the 112 First paragraph rejection in the action mailed on March 24, 2010.
July 29, 2010	Examiner mailed non-final action, maintaining the 112 First paragraph rejection, and adding an objection to Specification for adding New Matter under 35 USC 1.132(a).
October 27, 2010	Response to Non-Final action filed.

October 27, 2010 Instant petition filed, requesting withdrawal of objection to Specification for adding New Matter under 35 USC 1.132(a)..

REQUIREMENTS

A petition under 3 7 CFR § 1.181 must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. Note, the mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. In addition § 1.181 (f) sets forth: any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely.

The petition filed on November 24, 2010 includes the elements above, and is filed within 2 months of the mailing of the Final Office Action.

RELIEF REQUESTED

The Applicant respectfully requests withdrawal of objection to Specification for adding New Matter under 35 USC 1.132(a).

RULES AND PROCEDURE

37 CFR 1.181(f) states:

> The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provide. This two-month period is not extendable.

MPEP § 1201 states, in part:

> The line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the Director of the U.S. Patent and Trademark Office (Director) should be carefully observed. The Board will not ordinarily hear a question that should be decided by the Director on petition, and the Director will not ordinarily entertain a petition where the question presented is a matter appealable to the Board ...

608.04 New Matter

> 37 CFR 1.121. Manner of making amendments in applications.
> *****
> (f) No new matter . No amendment may introduce new matter into the disclosure of an application.

*****

608.04(c) Review of Examiner's Holding of New Matter

Where the new matter is confined to amendments to the specification, review of the examiner's requirement for cancelation is by way of petition. **But where the alleged new matter is introduced into or affects the claims, thus necessitating their rejection on this ground, the question becomes an appealable one, and should not be considered on petition even though that new matter has been introduced into the specification also.** 37 CFR 1.181 and 37 CFR 1.191 afford the explanation of this seemingly inconsistent practice as affecting new matter in the specification.

706.03(o) New Matter

*****

In amended cases, subject matter not disclosed in the original application is sometimes added and a claim directed thereto. Such a claim is rejected on the ground that it recites elements without support in the original disclosure under 35 U.S.C. 112, first paragraph, Waldemar Link, GmbH & Co. v. Osteonics Corp. 32 F.3d 556, 559, 31 USPQ2d 1855, 1857 (Fed. Cir. 1994); In re Rasmussen, 650 F.2d 1212, 211 USPQ 323 (CCPA 1981). See MPEP § 2163.06 - § 2163.07(b) for a discussion of the relationship of new matter to 35 U.S.C. 112, first paragraph. .....

2163.06 Relationship of Written Description Requirement to New Matter

Lack of written description is an issue that generally arises with respect to the subject matter of a claim. If an applicant amends or attempts to amend the abstract, specification or drawings of an application, an issue of new matter will arise if the content of the amendment is not described in the application as filed. Stated another way, information contained in any one of the specification, claims or drawings of the application as filed may be added to any other part of the application without introducing new matter. There are two statutory provisions that prohibit the introduction of new matter: 35 U.S.C. 132 - No amendment shall introduce new matter into the disclosure of the invention; and, similarly providing for a reissue application, 35 U.S.C. 251 - No new matter shall be introduced into the application for reissue.

I. TREATMENT OF NEW MATTER

If new subject matter is added to the disclosure, whether it be in the abstract, the specification, or the drawings, the examiner should object to the introduction of new matter under 35 U.S.C. 132 or 251 as appropriate, and require applicant to cancel the new matter. If new matter is added to the claims, the examiner should reject the claims under 35 U.S.C. 112, first paragraph - written description requirement. In re Rasmussen, 650 F.2d 1212, 211 USPQ 323 (CCPA 1981). The examiner should still consider the subject matter added to the claim in making rejections based on prior art since the new matter rejection may be overcome by applicant.....

II. REVIEW OF NEW MATTER OBJECTIONS AND/OR REJECTIONS

A rejection of claims is reviewable by the Board of Patent Appeals and Interferences, whereas an objection and requirement to delete new matter is subject to supervisory

review by petition under 37 CFR 1.181. **If both the claims and specification contain new matter either directly or indirectly, and there has been both a rejection and objection by the examiner, the issue becomes appealable and should not be decided by petition.**

DECISION

A review of the prosecution history in the instant application and the petition indicates that the examiner made a rejection under 35 USC 112 First Paragraph under Written Description requirement for the newly amended claims (amendment filed January 13, 2010), in the Final Office Action mailed on March 24, 2010. Applicant responded, on June 15, 2010, by amending the Specification in an attempt to overcome the above 112 First Paragraph rejection. In the office action that followed this amendment, Examiner objected to amendments to the Specification as introducing "New Matter", while maintaining the 112 First Paragraph rejection. There is both an objection to Specification, and rejection to Claims, as containing New matter, and therefore, per MPEP 608.04(c) and MPEP 2163.06 above, **the issue becomes appealable and should not be decided by petition.**

Therefore, pursuant to MPEP § 1201, the petition is **DISMISSED.**

The application file is being forwarded to the examiner for consideration of the Response filed on October 27, 2010.

Any inquiry concerning this decision should be directed to Mano Padmanabhan whose telephone number is (571) 272-4210.

Nestor Ramirez, Director
Technology Center 2100
Computer Architecture, Software, and Information Security

NRR/MP

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215 W. FALLBROOK AVENUE
SUITE 203
FRESNO CA 93711

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JUN 23 2011

OFFICE OF PETITIONS

In re Application of :
URABE :
Application No. 11/866,167 : DECISION ON PETITION
Filed: October 2, 2007 : TO WITHDRAW
Attorney Docket No. MP1313 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 6, 2011.

The request is **NOT APPROVED.**

The request to withdraw from record cannot be approved because the change of correspondence address is not that of an assignee who has properly intervened. The Office will either change the correspondence address of record to the most current address information provided for an assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor. 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 incompliance 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-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: MARVELL SEMICONDUCTOR, INC.
5488 MARVELL LANE
SANTA CLARA CA 95054

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JUL 05 2011

OFFICE OF PETITIONS

In re Application of :
URABE :
Application No. 11/866,167 :
Filed: October 2, 2007 :
Attorney Docket No. MP1313 :

CORRECTED
DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 6, 2011.

The request is **NOT APPROVED.**

The request to withdraw from record cannot be approved because the change of correspondence address is not that of an assignee who has properly intervened. The Office will either change the correspondence address of record to the most current address information provided for an assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor. 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 incompliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee."*

Further, the Request to Withdraw the Attorneys cannot be approved because the attorneys were not initially appointed through use of registration numbers, as indicated on the Request, the attorneys were appointed by use of a Customer Number. Petitioner should assure any future submissions to withdraw include the same method by which the attorneys were initially appointed in order to expedite the review and processing in the Office.

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: MARVELL SEMICONDUCTOR, INC.
5488 MARVELL LANE
SANTA CLARA CA 95054

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/866,176	10/02/2007	Masayuki URABE	MP1784	6669

45641 7590 05/03/2011

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215 W. FALLBROOK AVENUE
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EXAMINER	
BANSAL, GURTEJ	

ART UNIT	PAPER NUMBER
2189	

MAIL DATE	DELIVERY MODE
05/03/2011	PAPER

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The time period for reply, if any, is set in the attached communication.

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215 W. FALLBROOK AVENUE
SUITE 203
FRESNO CA 93711

In re Application of: Masayuki URABE
Application No. 11/866,176
Filed: October 2, 2007
Atty Docket No.: MP1784
For: FLASH MEMORY CONTROL INTERFACE

DECISION ON PETITION TO WITHDRAW THE FINALITY OF AN OFFICE ACTION

This is a decision on applicant's petition under 37 C.F.R. §1.181, filed on November 9, 2010, requesting withdrawal of the Objection to Specification under 37 CFR 1.132 in the Non-Final office action mailed on August 17, 2010.

The petition is **DISMISSED.**

Applicable Prosecution History

October 2, 2007	Original Application filed.
October 23, 2009	Examiner issued a FAOM (non-final Office action), rejecting all claims.
January 21, 2010	Applicant filed a response to the non-final action above, including amendments to some of the claims.
April 20, 2010	Examiner mailed final action, including a rejection for claims 1-24 under 35 USC 112 First paragraph as failing to comply with the written description requirement.
July 20, 2010	RCE filed with amendments to claims, and also amendment to Paragraph 40 of Specification to overcome the 112 First paragraph rejection in the action mailed on April 20, 2010.
August 17, 2010	Examiner mailed non-final action, maintaining the 112 First paragraph rejection, and adding an objection to Specification for adding New Matter under 35 USC 1.132(a).
November 9, 2010	Response to Non-Final action filed.

November 9, 2010 Instant petition filed, requesting withdrawal of objection to Specification for adding New Matter under 35 USC 1.132(a).

REQUIREMENTS

A petition under 3 7 CFR § 1.181 must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. Note, the mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. In addition § 1.181 (f) sets forth: any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely.

The petition filed on November 24, 2010 includes the elements above, and is filed within 2 months of the mailing of the Final Office Action.

RELIEF REQUESTED

The Applicant respectfully requests withdrawal of objection to Specification for adding New Matter under 35 USC 1.132(a).

RULES AND PROCEDURE

37 CFR 1.181(f) states:

> The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provide. This two-month period is not extendable.

MPEP § 1201 states, in part:

> The line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the Director of the U.S. Patent and Trademark Office (Director) should be carefully observed. The Board will not ordinarily hear a question that should be decided by the Director on petition, and the Director will not ordinarily entertain a petition where the question presented is a matter appealable to the Board ...

608.04 New Matter

> 37 CFR 1.121. Manner of making amendments in applications.
> *****
> (f) No new matter . No amendment may introduce new matter into the disclosure of an application.

*****

608.04(c) Review of Examiner's Holding of New Matter

Where the new matter is confined to amendments to the specification, review of the examiner's requirement for cancelation is by way of petition. **But where the alleged new matter is introduced into or affects the claims, thus necessitating their rejection on this ground, the question becomes an appealable one, and should not be considered on petition even though that new matter has been introduced into the specification also.** 37 CFR 1.181 and 37 CFR 1.191 afford the explanation of this seemingly inconsistent practice as affecting new matter in the specification.

706.03(o) New Matter

*****

In amended cases, subject matter not disclosed in the original application is sometimes added and a claim directed thereto. Such a claim is rejected on the ground that it recites elements without support in the original disclosure under 35 U.S.C. 112, first paragraph, Waldemar Link, GmbH & Co. v. Osteonics Corp. 32 F.3d 556, 559, 31 USPQ2d 1855, 1857 (Fed. Cir. 1994); In re Rasmussen, 650 F.2d 1212, 211 USPQ 323 (CCPA 1981). See MPEP § 2163.06 - § 2163.07(b) for a discussion of the relationship of new matter to 35 U.S.C. 112, first paragraph. .....

2163.06 Relationship of Written Description Requirement to New Matter

Lack of written description is an issue that generally arises with respect to the subject matter of a claim. If an applicant amends or attempts to amend the abstract, specification or drawings of an application, an issue of new matter will arise if the content of the amendment is not described in the application as filed. Stated another way, information contained in any one of the specification, claims or drawings of the application as filed may be added to any other part of the application without introducing new matter. There are two statutory provisions that prohibit the introduction of new matter: 35 U.S.C. 132 - No amendment shall introduce new matter into the disclosure of the invention; and, similarly providing for a reissue application, 35 U.S.C. 251 - No new matter shall be introduced into the application for reissue.

I. TREATMENT OF NEW MATTER

If new subject matter is added to the disclosure, whether it be in the abstract, the specification, or the drawings, the examiner should object to the introduction of new matter under 35 U.S.C. 132 or 251 as appropriate, and require applicant to cancel the new matter. If new matter is added to the claims, the examiner should reject the claims under 35 U.S.C. 112, first paragraph - written description requirement. In re Rasmussen, 650 F.2d 1212, 211 USPQ 323 (CCPA 1981). The examiner should still consider the subject matter added to the claim in making rejections based on prior art since the new matter rejection may be overcome by applicant.....

II. REVIEW OF NEW MATTER OBJECTIONS AND/OR REJECTIONS

A rejection of claims is reviewable by the Board of Patent Appeals and Interferences, whereas an objection and requirement to delete new matter is subject to supervisory

review by petition under 37 CFR 1.181. **If both the claims and specification contain new matter either directly or indirectly, and there has been both a rejection and objection by the examiner, the issue becomes appealable and should not be decided by petition.**

DECISION

A review of the prosecution history in the instant application and the petition indicates that the examiner made a rejection under 35 USC 112 First Paragraph under Written Description requirement for the newly amended claims (amendment filed January 21, 2010), in the Final Office Action mailed on April 20, 2010. Applicant responded, on July 20, 2010, by amending the Specification in an attempt to overcome the above 112 First Paragraph rejection. In the office action that followed this amendment, Examiner objected to amendments to the Specification as introducing "New Matter", while maintaining the 112 First Paragraph rejection. There is both an objection to Specification, and rejection to Claims, as containing New matter, and therefore, per MPEP 608.04(c) and MPEP 2163.06 above, **the issue becomes appealable and should not be decided by petition.**

Therefore, pursuant to MPEP § 1201, the petition is **DISMISSED.**

The application file is being forwarded to the examiner for consideration of the Response filed on November 9, 2010.

Any inquiry concerning this decision should be directed to Mano Padmanabhan whose telephone number is (571) 272-4210.

Nestor Ramirez, Director
Technology Center 2100
Computer Architecture, Software, and Information Security

NRR/MP

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215 W. FALLBROOK AVENUE
SUITE 203
FRESNO CA 93711

MAILED

JUN 23 2011

OFFICE OF PETITIONS

In re Application of	:	
URABE	:	
Application No. 11/866,176	:	DECISION ON PETITION
Filed: October 2, 2007	:	TO WITHDRAW
Attorney Docket No. MP1784	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 6, 2011.

The request is **NOT APPROVED.**

The request to withdraw from record cannot be approved because the change of correspondence address is not that of an assignee who has properly intervened. The Office will either change the correspondence address of record to the most current address information provided for an assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor. 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 incompliance 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-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: MARVELL SEMICONDUCTOR, INC.
5488 MARVELL LANE
SANTA CLARA CA 95054

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JUL 05 2011

OFFICE OF PETITIONS

In re Application of :
URABE :
Application No. 11/866,176 :
Filed: October 2, 2007 :
Attorney Docket No. MP1784 :
:

CORRECTED
DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 6, 2011.

The request is **NOT APPROVED.**

The request to withdraw from record cannot be approved because the change of correspondence address is not that of an assignee who has properly intervened. The Office will either change the correspondence address of record to the most current address information provided for an assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor. 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 incompliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee."*

Further, the Request to Withdraw the Attorneys cannot be approved because the attorneys were not initially appointed through use of registration numbers, as indicated on the Request, the attorneys were appointed by use of a Customer Number. Petitioner should assure any future submissions to withdraw include the same method by which the attorneys were initially appointed in order to expedite the review and processing in the Office.

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: MARVELL SEMICONDUCTOR, INC.
5488 MARVELL LANE
SANTA CLARA CA 95054

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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

MAILED
SEP 17 2010
OFFICE OF PETITIONS

In re Application of	:	
Jonathan C. Catten, et al.	:	
Application No. 11/866,247	:	DECISION GRANTING PETITION
Filed: October 2, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 16874.0022	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, September 10, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 1, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2612 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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PERMAN & GREEN, LLP
99 HAWLEY LANE
STRATFORD CT 06614

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OCT 24 2011

OFFICE OF PETITIONS

In re Application of :
John P. SIMONS et al. :
Application No. 11/866,255 : DECISION ON PETITION
Filed: October 02, 2007 :
Attorney Docket No. 950-011074-US(CD1) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 05, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 31, 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 December 01, 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, previously submitted February 04, 2010, (2) the petition fee of $1,860.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of August 31, 2009 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.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 1792 for appropriate action by the Examiner in the normal course of business on the reply received

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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FISH & RICHARDSON P.C. (SV)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
NOV 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Boris Galitsky, et al.	:	
Application No. 11/866,337	:	DECISION GRANTING PETITION
Filed: October 2, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 21366-003001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 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 October 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2161 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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SEP 26 2011

OFFICE OF PETITIONS

Clause Eight Intell. Prop. Service
P.O Box 131270
Carlsbad CA 92013

In re Application of :
Yang : DECISION ON PETITION
Application No. 11/866,354 :
Filed: October 2, 2007 :
Atty. Dkt. No.: 111150-016UTL :

This decision is in response to the petition under 37 CFR 1.137(b), filed September 4, 2011.

The petition is **GRANTED**.

The application became abandoned August 14, 2010 for failure to timely submit a proper reply to the final Office action mailed May 13, 2010. The 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 December 9, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

This application is being forwarded to Group Art Unit 2821 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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ANDERSON GORECKI & MANARAS LLP
33 NAGOG PARK
ACTON MA 01720

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Backes et al.	:	
Application No. 11/866,445	:	ON PETITION
Filed: October 3, 2007	:	
Attorney Docket No. 160-118	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed September 29, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

The instant pending nonprovisional application was filed on October 3, 2007, and was pending at the time of filing of the instant petition. While a reference to the prior-filed applications was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the prior-filed applications in the "Utility Patent Application Transmittal" and Declaration filed with the application, as shown by their inclusion on the original filing receipt mailed October 22, 2007.

In view of the above, the $1410.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

A Notice of Allowance was mailed October 19, 2010. Failure to timely and properly reply will result in abandonment of the instant application.

---

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3206. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/866,466	10/03/2007	Stewart Irving	JJIL-0144 (082077-0171)	7200

EXAMINER
BEKKER, KELLY JO

ART UNIT	PAPER NUMBER
1781	

MAIL DATE	DELIVERY MODE
09/17/2010	PAPER

7590 09/17/2010

Powers Law Firm
1484 Pollard Road , Suite 162
Los Gatos, CA 95032

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

adjustment date: 09/17/2010 KBEKKER
10/03/2007 STEWART 00000197 11866466
02 FC:2111 -255.00 CP

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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.
11/866,731	10/03/2007	Qian LIU	701919	7669

7590 09/01/2010

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

EXAMINER	
PINHEIRO, JASON PAUL	

ART UNIT	PAPER NUMBER
3714	

NOTIFICATION DATE	DELIVERY MODE
09/01/2010	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

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United States Patent and Trademark Office
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KINNEY & LANGE, P.A.
312 SOUTH 3RD STREET
THE KINNEY & LANGE BUILDING
MINNEAPOLIS MN 55415

MAILED
JUL 20 2011
OFFICE OF PETITIONS

In re Application of
Gao et al.
Application Number: 11/866,769
Filing or 371(c) Date: 10/03/2007
Attorney Docket Number: S895.12-0051

DECISION DISMISSING PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition filed under 37 CFR 1.78(a)(3) on June 6, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 11/305,778, filed December 16, 2005.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The proposed amendment to claim priority to the prior-filed application cannot be entered because the examiner has determined that the proposed amendment raises new issues that would require further consideration and/or search. Accordingly, submission of a Request for

Continued Examination (RCE) is required as a condition for acceptance of the late claim for priority under 37 CFR 1.78(a)(3).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

A reply may also be filed via the EFS-Web system of the USPTO.

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

HOLZERIPLAW, P.C.
5994 S. HOLLY ST., #300
GREENWOOD VILLAGE CO 80111-4221

In re Application of	:	
Gao et al.	:	
Application Number: 11/866,769	:	DECISION DISMISSING PETITION
Filing or 371(c) Date: 10/03/2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket Number: STL13595 / 791-029-USP	:	

This is a decision on the renewed petition filed under 37 CFR 1.78(a)(3) on September 19, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 11/305,778, filed December 16, 2005.

The petition is again **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition must be again dismissed because proper reply has not been filed in that applicants did not submit the proper extensions of with the Request for Continued Examination (RCE) and submission under 37 CFR 1.114 filed on September 19, 2011. Specifically, a review of the record reveals that on April 5, 2011, a final Office action was mailed. On June 6, 2011, an amendment after final rejection and the initial petition under 37 CFR 1.78(a)(3) were filed. On July 20, 2011, the petition was dismissed. On September 19, 2011, over three months after the

date the final rejection was mailed, the subject renewed petition, RCE, and submission were filed.

As the RCE and submission filed on September 19, 2011 were not filed within three (3) months of the date of mailing of the final Office action mailed on April 5, 2011, an appropriate extension of time under 37 CFR 1.136(a) was required to make the reply timely.

In this regard, petitioners' assertion, in the subject renewed petition, that no extension of time is required because no Advisory Action has been mailed, is not persuasive. As no Advisory Action has been mailed, any reply filed more than three months after the date the final Office action, was mailed, July 5, 2011, required the appropriate extension of time to be considered a timely reply. As 37 CFR 1.136(a)(2) states that the date on which the petition and the fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee **a three (3) month extension of time ($1,270.00 as of September 26, 2011) must be filed on or before October 5, 2011 to avoid abandonment of the application.**

Accordingly, the petition is **dismissed** pending submission of the requisite petition for extension of time and fee under § 1.17(a)(3).

Further correspondence with respect to this matter should be addressed as follows:

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By fax:
(571) 273-8300
ATTN: Office of Petitions

A reply may also be filed via the EFS-Web system of the USPTO.

Any questions concerning this matter may be directed to the undersigned at at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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HOLZERIPLAW, P.C.
5994 S. HOLLY ST., #300
GREENWOOD VILLAGE CO 80111-4221

MAILED
OCT 13 2011
OFFICE OF PETITIONS

In re Application of	:	
Gao et al.	:	
Application Number: 11/866,769	:	DECISION ON PETITION
Filing or 371(c) Date: 10/03/2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket Number: STL13595 / 791-029-USP	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed on October 6, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority prior-filed nonprovisional Application No. 11/305,778.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt

accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

The benefit claim is set forth in the amendment filed on September 19, 2011, accompanied by a request for continued examination. Receipt of a three (3) month extension of time filed on October 5, 2011 is acknowledged.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. 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 the Technology Center Art Unit 3729 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/866,769	10/03/2007	3729	1130	STL13595 / 791-029-USP	22	3

CONFIRMATION NO. 7731

CORRECTED FILING RECEIPT

64776
HolzerIPLaw, P.C.
5994 S. Holly St., #300
Greenwood Village, CO 80111-4221

Date Mailed: 10/13/2011

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)

Zheng Gao, Savage, MN;
Dimitar Dimitrov, Edina, MN;
Song S. Xue, Edina, MN;

Assignment For Published Patent Application

SEAGATE TECHNOLOGY LLC, Scotts Valley, CA

Power of Attorney: The patent practitioners associated with Customer Number 64776

Domestic Priority data as claimed by applicant

This application is a CIP of 11/305,778 12/16/2005 PAT 7,800,868

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: 10/19/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/866,769**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

MAGNETIC SENSING DEVICE INCLUDING A SENSE ENHANCING LAYER

Preliminary Class

029

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/866,828	10/03/2007	Tami Frenkel	12808.0042USU1	7849

23552 7590 06/23/2011
MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER	
LAMPRECHT, JOEL	
ART UNIT	PAPER NUMBER
3737	
MAIL DATE	DELIVERY MODE
06/23/2011	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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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

In re Application of: FRENKEL ET AL.
Application No. 11866828
Filed: October 03, 2007
For: METHOD AND SYSTEM FOR SUPERIMPOSING THREE DIMENSIONAL MEDICAL INFORMATION ON A THREE DIMENSIONAL IMAGE

DECISION ON PETITION UNDER 37 C.F.R. § 1.84(a)(2) TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed February 05, 2008, requesting acceptance of color drawings.

The petition requests that the color drawings, Figs. 4-6 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), three (3) sets of the color drawings in question, a black and white photocopy of said drawings, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was filed with the required fee and 3 (three) sets of color drawings of Figs. 4-6. The specification did Not contain the required notification described above.

The petition is **DENIED**.

/BRIAN CASLER/
Supervisory Patent Examiner, Art Unit 3737

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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AT&T Legal Department - HFZ
ATTN. Patent Docketing
One AT&T Way
Room 2A-207
Bedminstor NJ 07921

MAILED

APR 09 2012

OFFICE OF PETITIONS

In re Patent No. 8,139,563

Issue Date: March 20, 2012

Application No. 11/866,876

Filed: October 3, 2007

Attorney Docket No. **2007-0523**

ON PETITION

This is a decision on the petition filed March 15, 2012, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Cc:
Chad A. Pahnke
Hanley Flight & Zimmerman, LLC
Suite 2100
150 S. Wacker Drive
Chicago, IL 60606

[1] See *Official Gazette* of June 22, 2004.

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Sam L. Nguyen
Hamilton DeSanctis & Cha LLP
3239 El Camino Real, Suite 220
Palo Alto, California 94306

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Application of :
GOTTARDI et al. :
Application No. 11/866,924 : ON PETITION
Filing Date: October 3, 2007 :
Attorney Docket No. 57871-015 :
Title: FUNGICIDAL AGENT :
CONTAINING N-CHLOROTAURINE :
AND USE THEREOF :

This is a decision on the "PETITION UNDER 35 C.F.R. §1.183 TO REVOKE/REAPPOINT POWER OF ATTORNEY BY LESS THAN ALL APPLICANTS", filed March 1, 2011, which is being treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.32(b)(4).

In the present petition, applicants assert:

> [T]he present application has three inventors, including Waldemar Gottardi, Andreas Neher, and Markus Nagl. In the process of obtaining signatures of these inventors for revoking current power of attorney and reappointing new power of attorney, Applicants could not reach Andreas Neher despite of repeated attempts to contact him. Applicants submit that the "unavailability" of Andreas Neher constitutes an "extraordinary situation."
>
> Applicants respectfully request waiver of the requirement of 37 CFR 1.32(b)(4). Applicants further submit herewith a copy of the request for Revocation of Power of Attorney with new Power of Attorney and Change of Correspondence Address signed by Waldemar Gottardi and Markus Nagl.

Petition, 03/01/11, p. 2.

It is noted that 37 CFR 1.32(b)(4) requires that a power of attorney be signed by all of the applicants or an assignee empowered under 37 CFR 3.73(b). Section 402.10 of the Manual of Patent Examining Procedure provides that:

> Papers giving or revoking a power of attorney in an application generally require signature by all the applicants or owners of the application. Papers revoking a power of attorney in an application (or giving a power of attorney) will not be accepted by the Office when signed by less than all of the applicants or owners of the application unless they are accompanied by a petition under 37 CFR 1.36(a) and fee under 37 CFR 1.17(f) with a showing of sufficient cause (if revocation), or a petition under 37 CFR 1.183 and fee under 37 CFR 1.17(f) (if appointment) demonstrating the extraordinary situation where justice requires waiver of the requirement of 37 CFR 1.32(b)(4) that the applicant, or the assignee of the entire interest of the applicant sign the power of attorney. The petition should be directed to the Office of Petitions. The acceptance of such papers by petition under 37 CFR 1.36(a) or 1.183 will result in more than one attorney, agent, applicant, or owner prosecuting the application at the same time. Therefore, each of these parties must sign all subsequent replies submitted to the Office. See *In re Goldstein*, 16 USPQ2d 1963 (Dep. Assist. Comm'r Pat. 1988).

The granting of a petition under 37 CFR 1.183 is strictly limited to situations wherein an applicant has made a showing of an "extraordinary situation" where "justice requires" waiver of a requirement which is not also a requirement of the statutes.

In this instance, applicants have not demonstrated that an extraordinary situation exists where justice requires waiver of the requirement of 37 CFR 1.32(b)(4) that all the applicants or the assignee sign the power of attorney. Applicants simply stated that they "could not reach Andreas Neher despite of repeated attempts to contact him." However, applicants did not explain or provide any evidence showing what efforts they made to contact Andreas Neher. Applicants must provide a statement of facts by a person with firsthand knowledge detailing the efforts to contact the inventor. Additionally, applicants must submit documentary evidence such as the result of an E-mail, telephone, or Internet search. If these further attempts to locate Andreas Neher fail, applicants will have shown that the inventor is unavailable to sign the revocation of power of attorney with new power of attorney and change of correspondence address and that an extraordinary situation exists were justice would require waiver of 37 CFR 1.32(b)(4) .

In view of the above, the petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.32(b)(4) is **DISMISSED.** The revocation of power of attorney with new power of attorney and change of correspondence address filed March 1, 2011, will not be made of record.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: Foley & Lardner LLP
975 Page Mill Road
Palo Alto CA 94304-1013

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHEEHAN PHINNEY BASS & GREEN, PA
C/O PETER NIEVES
1000 ELM STREET
MANCHESTER NH 03105-3701

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Vikram Sharma	:	DECISION ON PETITION
Application No. 11/866,928	:	TO WITHDRAW
Filed: October 3, 2007	:	FROM RECORD
Attorney Docket No. 18534-6100	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 25, 2011.

The request is **NOT APPROVED**.

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 recognized the current recorded assignee concerning the above-identified application or the first listed inventor. COZPETS LLC is not the current assignee of the above-identified application. Further, as there is currently no Statement under 37 CFR 3.73(b) of record in the instant application for the current assignee, the Office cannot change the correspondence address to the address on the Request to Withdraw. 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 no outstanding Office action 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

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United States Patent and Trademark Office
P.O. Box 1450
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C/O PETER NIEVES
1000 ELM STREET
MANCHESTER NH 03105-3701

MAILED

JAN 04 2012

OFFICE OF PETITIONS

In re Application of
Vikram Sharma
Application No. 11/866,928
Filed: October 3, 2007
Attorney Docket Number: 18534-6100

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 December 13, 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.

Petitioner has failed to complete the change of correspondence address section. Petitioner has failed to submit the number and street address. Therefore, the petition is considered improper. 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 September 22, 2011 that requires a reply.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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BURR & BROWN
PO BOX 7068
SYRACUSE, NY 13261-7068

MAILED

AUG 05 2011

OFFICE OF PETITIONS

In re Application of :
Tetsuya KAWAJIRI, et *al.* :
Application No. 11/867,044 : DECISION GRANTING PETITION
Filed: October 4, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **815_063** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 3, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 28, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1784 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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

MAILED

JAN 27 2011

OFFICE OF PETITIONS

In re Application of
Zeng et al.
Application No. 11/867,051
Filed: October 4, 2007
Attorney Docket No. TI-64511 PS

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 7, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application, as set forth in the concurrently filed Application Data Sheet (ADS).

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the prior-filed provisional application has been included in an ADS, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Any other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2815 for appropriate action on the ADS submitted January 7, 2011, including consideration by the examiner 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
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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
11/867,051	10/04/2007	2815	1370	TI-64511	12	4

CONFIRMATION NO. 8330

CORRECTED FILING RECEIPT

23494
TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Date Mailed: 01/26/2011

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)

Kejun Zeng, Coppell, TX;
Wei Qun Peng, Coppell, TX;
Rebecca L. Holford, Garland, TX;
Robert John Furtaw, Dallas, TX;
Bernardo Gallegos, The Colony, TX;

Assignment For Published Patent Application

TEXAS INSTRUMENTS INCORPORATED, Dallas, TX

Power of Attorney: The patent practitioners associated with Customer Number 23494

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/943,194 06/11/2007

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: 10/19/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/867,051**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

STABLE GOLD BUMP SOLDER CONNECTIONS

Preliminary Class

257

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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OCT 26 2010

OFFICE OF PETITIONS

MARK E. TETREAULT
101 DYER STREET, 5TH FLOOR
PROVIDENCE RI 02903

In re Application of	:	
Peter A. GLOOR	:	
Application No. 11/867,094	:	DECISION ON PETITION
Filed: October 4, 2004	:	TO WITHDRAW
Attorney Docket No. G032 P01495-US1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed October 4, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have a power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to documents they file.

In this regard, a review of the file record indicates that Mark E. Tetreault, 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 address indicated below until otherwise properly notified.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: PETER A. GLOOR
25 RINDGEFIELD STREET
CAMBRIDGE, MA 02140

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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
SEP 23 2011
OFFICE OF PETITIONS

In re Application of :
MACDONALD et al. :
Application No. 11/867,109 : ON PETITION
Filed: October 4, 2007 :
Attorney Docket No. 30704-0002001 :

This is in response to the petition under 37 CFR 1.137(b) filed July 20, 2011, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed December 10, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). Applicants did not timely request any extensions of the period for reply under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on January 11, 2010. The Office mailed a Notice of Abandonment on July 7, 2010.

On July 20, 2011, applicants filed the present petition to revive the application abandoned unintentionally pursuant to 37 CFR 1.137(b). Additionally, applicants submitted supporting information filed under seal on April 7, 2011.

It is noted that the USPTO, under the Administrative Procedures Act, is required to maintain a complete record of the proceedings in a patent application. As it is necessary to maintain a complete record of the evidence upon which a decision on the petition was based, no decision on the present petition can be made until petitioner opens all of the evidence submitted for inspection by the public. Accordingly, the request for review of the petition under 37 CFR 1.137(b) is dismissed.

The Office further notes that applicants submitted a $1,175.00 extension of time fee on April 8, 2011, after the application became abandoned. Pursuant to 37 CFR 1.136, a request for an extension of time for response 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). As the $1,175.00 extension of time fee was submitted after the maximum extendable period for reply, this fee is unnecessary and will be refunded to the Deposit Account in due course.

Telephone inquiries 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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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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NOV 15 2011
OFFICE OF PETITIONS

In re Application of :
MacDonald et al. :
Application Number: 11/867,109 : DECISION ON PETITION
Filing Date: 10/04/2007 :
Attorney Docket Number: 30704-0002001 :

This is a decision on the RENEWED PETITION UNDER RULE 137(b) TO REVIVE AN UNINTENTIONALLY ABANDONED, which is treated as a renewed petition under 37 CFR 1.137(b),[1] filed on October 18, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

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[1] A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

This application became abandoned on January 11, 2010, for failure to timely file a proper reply to the Office action requiring restriction and/or election of species mailed on December 10, 2009, which set a one (1) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on July 7, 2010. On July 20, 2011, a petition under 37 CFR 1.137(b) was filed. On September 23, 2011, the request for review of the petition under 37 CFR 1.137(b) was dismissed.

37 CFR 1.137(b)(3) states that the Director may required additional information where there is a question whether the delay was unintentional. The statements in the petition, signed by applicants' attorney, David L. Feigenbaum (hereinafter "Feigenbaum") and the accompanying declaration of Eric MacDonald (hereinafter "MacDonald"), a joint inventor and president and CEO of prior assignee Zhura Corporation (hereinafter "Zhura") raise a question as to whether the delay was unintentional.

In particular, the MacDonald declaration states that, by email on November 23, 2009, Feigenbaum asked inventor MacDonald for instructions regarding responding to the outstanding restriction requirement.

The petition states that Feigenbaum's email stated, in part:

"The first question is whether you just want to drop this patenting effort altogether. Please let me know if this is the case."[2]

The declaration of Eric MacDonald states, in pertinent part:

> 2. By email on November 23, 2009, Mr. Feigenbaum at Fish & Richardson asked me for instructions regarding a restriction requirement that had been received by Fish & Richardson from the patent office. The emaiI said "... The first question is whether you just want to drop this patenting effort altogether. Please let me know if that is the case." On November 24, 2009, I replied by email that "... I'm going to drop this patent effort. Thanks for the note."[3]

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[2] Petition, page 2.

[3] MacDonald declaration, page 1.

The petition further states that subsequently, on November 24, 2009, Feigenbaum replied: "Okay."[4]

The petition states that on January 12, 2010, a colleague of Feigenbaum at the Fish and Richardson law firm noted in an email that "[t]he client has instructed us to abandon the 0002001 case [the case to which this petition refers]…." On January 12, 2010, Feigenbaum responded "yes". The note concerning abandonment was reflected in docket entries maintained by Fish and Richardson.[5]

The petition further states that after the communications about dropping the patent effort, on January 19, 2010, MacDonald said to Feignenbaum, in an email:

> David, I'm in the process of merging Zhura with another company on the west coast. Could you please confirm the status of our Patent filing ...?
>
> I can't find the last coorispondance [*sic*] in which we chose not to pursue the separation of claims, but I'm unclear on whether the application is still in process.[6]

Also on January 19, 2010, Mr. Feigenbaum replied to Mr. MacDonald, saying:

> Eric--The United States patent application is still alive and well. A reply to the patent office on the question of separation of the claims has a final deadline of June 10, 2010. Also there is an international patent application pending. In the international case, a decision would have to be made by April 6 on whether to take the application into Europe and other places. I'm not sure if your merger is in the context of a deal with someone on the other side, but if so, both of these applications could possibly be of value to anyone wanting to pursue this process. David

The petition continues:

> The merger of Zhura into Scripped, Inc., was consummated on February 22, 2010. On that day, Zhura

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[4] Petition, page 2.
[5] Id.
[6] Id.

ceased to exist, Mr. MacDonald's position as CEO of Zhura ended, and he became a member of the Board of Directors of Scripped and a shareholder in Scripped. Scripped became the owner of the patent application. However, from that time until February 25, 2011, Mr. Rajaraman, the CEO of Scripped, was not aware of the deadline for reply or that the patent application was subject to abandonment or had become abandoned.

On March 10, 2010, a colleague of Mr. Feigenbaum responded to an internal Fish & Richardson docket reminder by saying "The client has instructed us to abandon the case. Please clear."

On April 2, 2010, Mr. Feigenbaum wrote an email to Mr. MacDonald, saying:

> Eric--Please confirm that we are to take no further action on either the US case or the international case and to allow them to become abandoned. That has been my assumption in light of my email below, but can you please confirm. We will take no further action and the cases will become abandoned unless we hear from you to the contrary immediately. David

Mr. Feigenbaum has not located a reply from Mr. MacDonald to the April 2 email. Mr. MacDonald has located the April 2, 2010, email, but does not recall having seen it at the time it was received and has no record of having replied to it.[7]

Petitioners further state, via the declaration by Sunil Rajaraman, CEO of Scripped, Inc., (hereinafter "Scripped") that the subject patent was mentioned during a discussion on or about February 25, 2011, and that Scripped, Inc. believes that the application became abandoned unintentionally and that the entire delay from the due date for the reply (January 10, 2010) until the filing of this petition was unintentional.[8]

Petitioners' argument has been considered, but is not persuasive.

As stated in MPEP 711.03(c):

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[7] Id. at pages 2-3.
[8] Rajaraman declaration, page 1.

The legislative history of Public Law 97-247, § 3, 96 Stat. 317 (1982), 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 [the requisite fee] 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." H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71. A delay resulting from a deliberately chosen course of action on the part of the applicant is not an "unintentional" delay within the meaning of 37 CFR 1.137(b).

Where the applicant deliberately permits an application to become abandoned (*e.g.*, due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

A review of the record suggests that MacDonald, as president and CEO of Zhura Corporation (hereinafter "Zhura"), the assignee of the entire interest at the time the application became abandoned, and his counsel, Feigenbaum, made an intentional decision to abandon prosecution of this application and not to respond to the Office action mailed on December 10, 2009.

Zhura, as the assignee of the entire interest was free to deal with the patent as Zhura willed.[9] As such, petitioner Scripped, as the successor in title, is bound by the delay resulting from Zhura, its partners, or their principles' business decisions, actions, or inactions, including those business decisions, actions, or inactions which led to the decision not to continue prosecution of or to abandon the application, or the failure of Zhura to earlier assign its

[9] See Garfield v. Western Electric Co., 298 F.659 (S.D.N.Y. 1924).

rights to petitioner.[10] As petitioner Scripped acquired its interest after the application had been abandoned, that it may subsequently acted with diligence is immaterial to the delay that led to the expiration of the patent.[11] Rather, petitioner, as the successor in title to Zhura's application, is bound by Zhura, its partners, or their principles's previous business decisions, actions, or inactions, regarding the decision to intentionally abandon this application for this patent.[12]

Further with regard to the actions of Feigenbaum, while petitioner allegedly chose to rely upon Feigenbaum, such reliance *per se* does not provide petitioner with a showing of unavoidable delay within the meaning of 37 CFR 1.137(a) and 35 USC 41(c).[13] Rather, such reliance merely shifts the focus of the inquiry from petitioner to whether Feigenbaum acted reasonably and prudently.[14] Nevertheless, petitioner is bound by any errors that may have been committed by Feigenbaum.[15]

The showing of record is that MacDonald and Feigenbaum made an intentional decision to abandon prosecution of this application and not to respond to the Office action mailed on December 10, 2009. An intentional delay cannot be considered unintentional, and therefore the petition must be **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

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[10] See Winkler v. Ladd, 221 F.Supp. 550, 552, 138 USPQ 666, 667 (D.D.C. 1963).

[11] See Kim v. Quigg, 718 F.Supp. 1280, 12 USPQ2d 1604 (E.D. Va 1989).

[12] Winkler, supra; Kim supra.

[13] See California Medical Products v. Technol Med. Prod., 921 F. Supp. 1219, 1259 (D. Del., 1995).

[14] Id.

[15] California, *supra*.

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

A reply may also be filed via EFS-Web.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/22/11

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 11867155 Patent No.: 7638548

CofC mailroom date: 03/16/11

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

You can fax the Director/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.

☐ denial below.

Comments: _____

/Joseph K. McKane/

SPE _____ **1626 Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHOATE HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

MAILED

AUG 09 2011

OFFICE OF PETITIONS

In re Patent No. 7,947,487	:	DECISION ON
Doyle, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: May 24, 2011	:	AND NOTICE OF INTENT
Application No. 11/867,217	:	TO ISSUE
Filed: October 4, 2007	:	CERTIFICATE OF
Attorney Docket No. 0492611-0812	:	CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) AND 37 C.F.R. § 1.705(d)", filed July 25, 2011. Patentees request that the patent term adjustment indicated on the patent be corrected from four hundred seventeen (417) days to four hundred fifty-seven (457) 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 fifty-seven (457)** days.

On May 24, 2011, the above-identified application matured into U.S. Patent No. 7,947,487. Patentees timely filed an application for patent term adjustment under 37 CFR 1.705(d) on July 25, 2011. Patentees assert that they should not have been assessed applicant delay of forty-seven (47)days for the submission of a Rule 312 Amendment on April 8, 2011, after the Notice of

Allowance was mailed on January 11, 2011. Rather, Patentees assert that they should have only been assessed applicant delay of seven (7) 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 April 8, 2011, and the Office mailed a Response to Rule 312 Communication on April 14, 2011. Accordingly, Applicants should have been accorded 7 days of delay for the filing of the Rule 312 Amendment, not 47 days as reflected in PAIR.

In view thereof, the correct determination of PTA at the time of issuance is four hundred fifty-seven (457) days (610 (378+232) days of PTO delay, reduced by 153 (93+49+4+7) days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **four hundred fifty-seven (457)** days subject to any disclaimers.

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 : 7,947,487 B2

DATED : **May 24, 2011**

INVENTOR(S) : Doyle 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 417 days.

Delete the phrase "by 417 days" and insert – by 457 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.
11/867,237	10/04/2007	Masataka MOTEKI	070120-0365440	8651

7590 08/11/2011

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER	
ZHAO, DAQUAN	

ART UNIT	PAPER NUMBER
2484	

NOTIFICATION DATE	DELIVERY MODE
08/11/2011	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 04/04/12

TO SPE OF : ART UNIT: 2612 Attn: BUGG GEORGE A (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/867273 Patent No.: 7932814

CofC mailroom date: 03/23/2012

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 the Title, Abstract and Specifications. Tasneem Siddiqui

Should these be corrected as requested or not

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.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: Done

/George Bugg/ SPE

2612 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/867,290	10/04/2007	Hyun Kang	4043.3000 US1	8764

38473 7590 08/02/2010

ELMORE PATENT LAW GROUP, PC
515 Groton Road
Unit 1R
Westford, MA 01886

EXAMINER
ALLEN, MARIANNE P

ART UNIT	PAPER NUMBER
1647	

MAIL DATE	DELIVERY MODE
08/02/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AUG 0 2 2010

ELMORE PATENT LAW GROUP, PC
515 Groton Road
Unit 1R
Westford MA 01886

In re Application of :
Kang et al. :
Serial No.: 11/867,290 : Decision on Petition
Filed: October 4, 2007 :
Attorney Docket No.: **4043.3000 US1** :

This letter is in response to the petition filed under 37 C.F.R. § 1.181 filed on June 7, 2010 to reverse the examiner's refusal to enter the after final amendment and Declaration mailed May 7, 2010. This letter is also in response to the restriction requirement of October 23, 2008.

BACKGROUND

Relevant parts of the prosecution history are summarized below.

The examiner mailed to applicants a final Office action on December 9, 2009. Claims 1 and 24-27 were pending. Claims 1, 26 and 27 were rejected and claims 1 and 24-27 were subjected to a restriction requirement. Claims 1 and 26 were rejected under 35 U.S.C. § 112, first paragraph, as not being enabled for in vivo methods of inducing negative chemotaxis in neutrophils. Claim 26 was rejected under 35 USC 112, second paragraph, as indefinite. Claims 1 and 26 were rejected under 35 USC 102 (e) as being anticipated by Kehrel et al. Claims 1 and 27 were rejected under 35 USC 102 (e) as being anticipated by Bock et al.

On March 23, 2010, a personal interview was held wherein art rejections and inherency was discussed, as well as the in vivo aspects of the claims. No agreement was reached.

On April 22, 2010, applicants submitted an after final amendment including claim amendments, remarks, and a Declaration under 35 USC 1.132.

A Notice of Appeal was also filed on April 22, 2010.

On May 7, 2010, the examiner mailed to applicants an 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 are raised. The examiner also indicated the Declaration would not be entered as it was not timely and failed to provide reasons why it was necessary.

On June 7, 2010, applicants submitted the petition currently under review.

DISCUSSION

The petition and file history have been carefully considered.

Applicants argue that "the Declaration is necessary for rebutting specific allegation made in the Final action and the Declaration places the Application in better form for appeal." Applicants' points are well taken that the examiner raised several new reasons in the final Office action of December 9, 2009 as to why the claims were not enabled. Accordingly, applicants' argument is found to be persuasive that the declaration was necessary to rebut specific allegations raised in the final Office action, and hence, the declaration will be entered.

Applicants also argue "The Examiner refused the amendment as raising new issues which would require further consideration or search and are not deemed to place the application in better form for appeal." Specifically, the "Amendment amended 2 claims, Claim 1 and withdrawn Claim 24. Claim 1 was amended to simply reword the claim for clarity. The Examiner does not appear to dispute that this claim is improved by the amendment. The dispute appears to reside within the amendment to Claim 24. The Examiner alleges that the amendment raises a new issue. If the Examiner maintains the restriction requirement and the status of the claim as withdrawn, the claim (amended or not) will not be examined and cannot raise new issues. If the Examiner withdraws the restriction requirement, as she should given that the requirement is improper, then the claim would need to be examined anyway, whether in amended form or not. In either event, the amendment of a withdrawn claim does not, in of itself, raise new issues." Applicants' points on this issue are persuasive that no new issues are raised. Accordingly, the amendment after final will be entered.

Applicants also "petition the Director to withdraw the restriction requirement. Claim 1 is directed to a method of inducing negative chemotaxis of neutrophils by administering to the neutrophils antithrombin III. Claim 26 is dependent therefrom and states that migration of the neutrophils to a site of inflammation is inhibited. The specification makes clear that such a method can be used to ameliorate an inflammatory response. Claim 24 is a method of ameliorating an inflammatory response by administering antithrombin III and inducing negative chemotaxis of neutrophils. The relatedness of these claims is apparent. In practicing the method of Claim 24, one will also be practicing the method of Claim 26."

With regard to the above request under 37 CFR 1.144, 37 CFR 1.144 states

> After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement.

Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

Here, applicants petitioned the restriction requirement on June 7, 2010, which is after the filing of the Notice for Appeal on April 22, 2010. For this reason, the petition under 1.144 is dismissed as untimely.

DECISION

The petition is **GRANTED-IN-PART**. The petition is **GRANTED** as regards the after final amendment and declaration for the reasons set forth above. The advisory action mailed June 7, 2010, indicating that the after final amendment of April 22, 2010 would not be entered is hereby **VACATED**. The petition is **DISMISSED** as regards the restriction requirement for the reasons set forth above.

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 April 22, 2010 will be entered but still not allowed. The Declaration will also be entered. 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.

George Elliott
Director, Technology Center 1600

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 3/28/2011
Patent No.	: 7,797,818 B2
Serial No.	: 11/867,325
Inventor(s)	: Sabouné
Issue Date	: September 21, 2010
Title	: **FLEXIBLE MODULAR SYSTEMS FOR CONSTRUCTING A WIRELESS COMMUNICATION TERMINAL**
Doc./File No.	: **9342-407**

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, it is the practice to exclude words such as "A", "IMPROVED", "IMPROVEMENTS IN," "NEW", or "NOVEL" as the first word in the title of the invention. Therefore, no correction is in order here under Rule 1.322 or 1.323.

In view of the foregoing, your request is hereby denied.

Future correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (571) 572-3385
Mary F. Diggs, *Supervisor* (703) 756-1580
Decisions & Certificates of Correction Branch
ernest.white@uspto.gov

MYERS BIGEL SIBLEY & SAJOVEC, P.A.
P.O. BOX 37428
RALEIGH NC 27627

ecw

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60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

MAILED

MAR 04 2011

OFFICE OF PETITIONS

In re Application of	:	
Katsuji Arawaka, et al.	:	
Application No. 11/867,435	:	DECISION GRANTING PETITION
Filed: October 4, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 16443.164	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 2, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 9, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2883 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : November 21,2011

In re Application of :

Peter Nielsen

Application No : 11867459

Filed : 04-Oct-2007

Attorney Docket No : Polariced008

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed November 21,2011

The request is **APPROVED.**

The request was signed by Robert J. Yarbrough (registration no. 42241) on behalf of all attorneys/agents associated with Customer Number 38288 . All attorneys/agents associated with Cusotmer Number 38288 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	Peter Nielsen
Name2	Polariced Products, Inc.
Address 1	7327 N. McKinley Ave.
Address 2	
City	Kansas City
State	MO
Postal Code	64158
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	11867459
Filing Date	04-Oct-2007
First Named Inventor	Peter Nielsen
Art Unit	3752
Examiner Name	QINGZHANG ZHOU
Attorney Docket Number	Polariced008
Title	Drinking Vessel Dry Ice Filling Apparatus and Method

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 38288

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	Peter Nielsen Polariced Products, Inc.
Address	7327 N. McKinley Ave.
City	Kansas City
State	MO
Postal Code	64158
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Robert Yarbrough/
Name	Robert J. Yarbrough
Registration Number	42241

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ABEL LAW GROUP, LLP
7300 FM2222
Bldg 1, Ste 210
AUSTIN TX 78730

MAILED
JUL 08 2011
OFFICE OF PETITIONS

In re Application of :
Gwo S. Swei et al. :
Application No. 11/867,520 : PETITION DECISION
Filed: October 4, 2007 :
Attorney Docket No. 1035-O4749 :

This is a decision on the petitions filed May 24, 2011 under 37 CFR 1.183 which is being treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131 and a petition under 37 CFR 1.47(a).

The petition under 37 CFR 1.183 is **DISMISSED.**

The petition under 37 CFR 1.47(a) is **GRANTED.**

The application, as-filed, identified six inventors as the inventive entity. A declaration under 37 CFR 1.131(a) was filed on May 24, 2011 but was not signed by Olivier Guiselin who is unavailable. The declaration was also not signed by Pawel Czubarow who refused to sign.

As to the petition under 37 CFR 1.183:

Petitioner has filed the instant petition to request waiver of the signature of the unavailable inventor Guiselin.

MPEP 715.04(I) states in part:

> Where one or more of the named inventors of the subject matter of the rejected claim(s) (who had originally signed the oath or declaration for patent application under 37 CFR 1.63) is now unavailable to sign an affidavit or declaration under 37 CFR 1.131, the affidavit or declaration under 37 CFR 1.131 may be signed by the remaining joint inventors provided a petition under 37 CFR 1.183 requesting waiver of the signature of the unavailable inventor be submitted with the affidavit or declaration under 37 CFR 1.131. Proof that the non-signing inventor is unavailable or cannot be found similar to the proof required for a petition under 37 CFR 1.47 must be submitted with the petition under 37 CFR 1.183 (see MPEP § 409.03(d)). Petitions under 37 CFR 1.183 are decided by the Office of Petitions (see MPEP § 1002.02(b)).

The applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor. See MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate the non-signing inventor, such that the declaration can be accepted under 37 CFR 1.131. Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the inventor.

Petitioner has not demonstrated that all efforts were expended in trying to locate inventor non-signing Guiselin. In this regard, petitioner should state whether he has access to inventor Guiselin's personnel records and, if so, what does inspection of the records reveal as to a current address, forwarding address, or an address of the nearest living relative? Further, the petition fails to indicate that correspondence was ever mailed unsuccessfully to the inventor's last known address. The petition indicates that a "letter" was sent to Guiselin's last known address but it is not clear if this letter included a copy of the declaration. Therefore, at the very least, petitioner should mail a copy of the declaration to the inventor's last known address, return receipt and/or forwarding address requested. If a forwarding address is provided, petitioner should then mail a complete copy of the declaration to Guiselin's address, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that the inventor cannot be reached after diligent effort or has refused to sign the declaration. The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein and should be accompanied by documentary evidence in support of the statement of facts. It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded that an inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an inventor gives a reason for refusing to sign the declaration, that reason should be stated in the affidavit or declaration.

As to the petition under 37 CFR 1.47(a):

This petition is a resigned duplicate of the petition filed June 20, 2008 and granted in a decision mailed August 25, 2008. The instant petition is granted in that this decision is a confirmation of the petition grant of August 25, 2008.

Telephone inquiries concerning this matter should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED
OCT 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Jochelson et al.	:	DECISION ON PETITION
Application No. 11/867,595	:	TO MAKE SPECIAL
Filed: October 4, 2007	:	37 CFR 1.102(C)
Attorney Docket No. SOMX.040A	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 30, 2011, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED**.

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 Neil B. Kavey. However, Mr. Kavey is not currently listed as an inventor in the instant application.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 1628 to await a response to the Office action mailed May 10, 2011.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK NY 10104-3800

MAILED

AUG 11 2010

OFFICE OF PETITIONS

In re Application of :
TERRANCE KAISERMAN ET AL. :
Application No. 11/867,606 :
Filed: October 4, 2007 :
Attorney Docket No. **03875.001700.** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed request to withdraw as attorney of record under 37 CFR § 1.36(b), filed July 2, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond , pursuant to 37 CFR 10.40.

The request was signed by Douglas Sharrott on behalf of all attorneys of record who are associated with Customer Number 05514.

All attorneys/agents associated with Customer Number 05514 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee of record T-Ink, Inc. at the address list listed in the request.

There is no outstanding Office action mailed that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: T-Ink, Inc.
244 West 54th Street
New York, NY 10019

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.
11/867,639	10/04/2007	Bruno M. Scherzinger	71599-8004.US01	9422

22918 7590 06/02/2011

PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

EXAMINER	
KHATIB, RAMI	
ART UNIT	**PAPER NUMBER**
3663	

NOTIFICATION DATE	DELIVERY MODE
06/02/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentprocurement@perkinscoie.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN - 1 2011

PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

In re Application of	:	DECISION ON THE PETITION
Bruno M. Scherzinger et al	:	UNDER 37 CFR 1.144
Application No. 11/867,639	:	
Filed: October 4, 2007	:	
For: REAL-TIME HIGH ACCURACY POSITION AND ORIENTATION SYSTEM	:	

This is a decision on applicant's petition on the propriety of the restriction/election filed under 37 CFR 1.144 on July 19, 2010.

The petition is DISMISSED as moot.

Applicants argue that the restriction requirement made on March 30, 2010 and made final on July 8, 2010 was improper in that the inventions identified in the restriction requirement are not independent or distinct, and there is no serious burden on the examiner if restriction is not required. Applicants request withdrawal of the restriction requirement and rejoinder of withdrawn claims 20-25 with elected claims 1-19.

A thorough review of the application reveals that the subject restriction requirement was withdrawn by the examiner and an action on the merits to all claims pending was issued on May 25, 2011. Therefore, the issues raised in the petition are now moot.

Any questions or comments with respect to this decision should be forwarded to Jack W. Keith at (571) 272-6878.

Katherine Matecki, Director
Technology Center 3600
(571) 272-5250

jk: 05/24/11
LM

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P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : May 4,2011

In re Application of :

Jeffrey Balzer

Application No : 11867654

Filed : 04-Oct-2007

Attorney Docket No : 337348040US2 (09-114 C1)

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed May 4,2011 , to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Office of Patent Publication.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)
Application Number	11867654
Filing Date	04-Oct-2007
First Named Inventor	Jeffrey Balzer
Art Unit	3762
Examiner Name	SCOTT GETZOW
Attorney Docket Number	337348040US2 (09-114 C1)
Title	SYSTEM AND METHOD FOR TREATING PARKINSON'S DISEASE AND OTHER MOVEMENT DISORDERS

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee must accompany ePetition.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◉ Drawing corrections and/ or other deficiencies are not required

○ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on

○ Drawing corrections and/ or other deficiencies are attached.

☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.

○ A joint inventor; all of whom are signing this e-petition.

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Melissa W. Acosta, #45872/
Name	Melissa W Acosta
Registration Number	45872

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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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED

JUN 30 2011

OFFICE OF PETITIONS

In re Application of :
Daniel PERLMAN :
Application No. 11/867,682 : DECISION ON PETITION
Filed: October 04, 2007 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 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 Restriction Requirement, mailed September 29, 2009 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Restriction Requirement of September 29, 2009 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.

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) 272-4231.

This application is being referred to Technology Center AU 1781 for appropriate action by the Examiner in the normal course of business on the reply received.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **WB AMES IP**
7031 LOS VIENTOS SERENOS
ESCONDIDO, CA 92029

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date: 08/04/10

Patent No. : 7732784 B2
Ser. No. : 11/867,732
Inventor(s) : SHIMIZU, KIMIYA
Issued : 06/08/10
Title : **WAVELENGTH-TUNABLE LIGHT GENERATOR AND OPTICAL COHERENCE TOMOGRAPHY DEVICE**
Docket No. : **OIP.0028D2**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 756-1574 or (703) 305-8309

VOLENTINE & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON VA 20190

LMN

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VOLENTINE & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON VA 20190

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SEP 2 1 2010

OFFICE OF PETITIONS

In re Patent No. 7,732,784 :
Issue Date: June 8, 2010 :
Application No. 11/867,732 : DECISION ON PETITION
Filed: October 5, 2007 :
Attorney Docket No. OIP.0028D2 :

This is a decision on the Request To Correct Assignee Under 37 C.F.R. 3.81(b), filed August 17, 2010, which is being treated as a Petition Under 37 CFR 3.81(b) to accept the omission of the second assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR 3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the omission of the second assignee's name on the previously submitted PTOL-85B and such error was inadvertent. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to 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), 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/SB/44) that accompanied the petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,732,784.

Cheryl Gibson-Baylor
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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MEREDITH & KEYHANI, PLLC
330 MADISON AVE.
6TH FLOOR
NEW YORK NY 10017

MAILED

MAR 30 2011

OFFICE OF PETITIONS

In re Application of :
Hasmukh Dholakiya :
Application No. 11/867,832 : DECISION ON PETITION
Filed: October 5, 2007 TO WITHDRAW FROM RECORD
Attorney Docket No. 278-015 :
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 14, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Fariba Sirjani on behalf of himself. Accordingly, Fariba Sirjani associated with the above-identified application has been withdrawn as attorney of record in the above-identified application.

The correspondence address of record remains unchanged.

Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, a Board of Patent Appeals and Interferences Docketing Notice was mailed March 9, 2011 in the above-identified application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Fariba Sirjani
925 Delaware Avenue, Apt 9C
Buffalo, NY 14209

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IP GROUP OF DLA PIPER LLP (US)
ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA PA 19103

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DEC 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Ubaldi et al.	:	
Application No. 11/867,833	:	DECISION ON PETITION
Filed: October 5, 2007	:	
Attorney Docket No. IDI-06-1266R	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 29, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed, April 26, 2010, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, the application became abandoned on October 27, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00 and the submission required by 37 CFR 1.114 (previously submitted on October 22, 2010); (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center AU 3629 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed October 22, 2010.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 01 2010

OFFICE OF PETITIONS

QUINN LAW GROUP, PLLC
39555 ORCHARD HILL PLACE
SUITE 520
NOVI MI 48375

In re Application of	:	
Fanghui SHI, et al	:	
Application No. 11/867,859	:	DECISION ON PETITION
Filed: October 5, 2007	:	
Attorney Docket No. P000202-PTE-KFB	:	

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 pay the issue and publication fees on or before October 13, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed July 13, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 14, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and publication fee of $300; (2) the petition fee of $1620; and (3) 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

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United States Patent and Trademark Office
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PATENT DOCKETING
ROOM 2A-207, ONE AT& T WAY
BEDMINSTER NJ 07921

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JUN 30 2011

OFFICE OF PETITIONS

In re Application of :
Xiaolin Lu :
Application No. 11/867,895 : DECISION GRANTING PETITION
Filed: October 5, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ATT/„3315 DIV :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 28, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 9, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2467 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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THE OLLILA LAW GROUP LLC
2569 Park Lane, Suite 202
Lafayette CO 80026

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OCT 31 2011

OFFICE OF PETITIONS

In re Application of :
Sund et al. :
Application No. 11/867,993 : DECISION ON PETITION
Filed: October 5, 2007 : UNDER 37 CFR 1.183
Attorney Docket: 35010/297RIS :
:

This is a decision on petition filed under 37 CFR 1.47 on August 31, 2011, which is taken under 37 CFR 1.183, [1] requesting suspension or waiver of the regulations (37 CFR §§ 1.67, 1.172 and 1.175) that require the inventor to sign any supplemental declaration in a broadening reissue application.

The petition is **Dismissed**.

BACKGROUND

1. U.S. Patent No. 7,114,517 issued to Sund, Dille, Barger and Pawlas on October 3, 2006.

2. A broadening reissue application (the present application) was filed for the '517 patent on October 5, 2007, and it was assigned application number 11/867,993.

3. A partially executed declaration, which did not include the signature of inventor Barger, was filed on October 5, 2007.

---

[1] 37 CFR 1.47 only applies where, in the first instance, the signature of an originally named, or to be added, inventor can not be obtained. As all inventors executed an original reissue declaration and thus "made" the application, 37 CFR 1.47 does not apply in this case. See 37 CFR 1.47; MPEP 201.03. Rather, the remedy lies under 37 CFR 1.183, when a required supplemental declaration is not executed in whole or in part by one or more previously signing inventors. See MPEP 603. If a joint inventor refuses, or cannot be found or reached, to sign a supplemental oath/declaration, a supplemental oath/declaration listing all the inventors, and signed by all the available inventors may be filed, provided it is accompanied by a grantable petition under 37 CFR 1.183 (with the petition fee) requesting waiver of the signature requirement of the nonsigning inventor. MPEP 1414.01.

4. A petition filed under 37 CFR 1.47 was granted on July 21, 2008. Rule 47 status was granted for non-signing inventor Barger.

5. During the prosecution of the application, the Office required a supplemental reissue declaration directed to errors in the original patent which were corrected in the application after the signing of the original reissue declaration.

6. On August 31, 2011, applicant filed the present petition under 37 CFR 1.183 requesting suspension or waiver of the "regulations pertaining to the filing of a Supplemental Declaration under 37 C.F.R. § 1.175" that require a supplemental reissue declaration to be signed by the inventors.

7. The petition is accompanied by a Supplemental Reissue Application Declaration by inventors Sund, Dille, and Pawlas signed August 31, 2011. It is for this supplemental declaration that the petition requests acceptance, via suspension or waiver of the regulations.

DECISION

The provisions of 35 U.S.C. 251, which is directed to reissue of patents, do not address the signature requirements of a declaration or oath in reissue. As to the reissue regulations, 37 CFR 1.172 requires that a reissue declaration or oath be made (and signed) by the inventors, except as otherwise provided (37 CFR §§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged. In addition, 37 CFR 1.175(b)(1), requires that:

> "For any error corrected, which is not covered by the oath or declaration submitted under paragraph (a) of this section, applicant must submit **a supplemental oath or declaration** stating that every such error arose without any deceptive intention on the part of the applicant." [Emphasis added]

37 CFR 1.175(b)(1), taken in conjunction with 37 CFR 1.172, requires that a supplemental oath or declaration be signed by the inventor(s). This is because all oaths or declarations necessary to fulfill the rule requirements in a reissue application are taken together collectively as a single oath or declaration. Thus, each oath and/or declaration must bear the appropriate signatures of the inventors.

37 CFR 1.183 requires a showing of "an extraordinary situation, when justice requires" relief. In this instance no such sowing has been made. Since this application was previously granted Rule 1.47 status pursuant to 37 CFR 1.47, there is no need to obtain the signature of inventor Barger on the supplemental reissue declaration. The lack of signature of inventor Barger on the supplemental reissue declaration does not bar its entry. Since there is no need for the relief requested, the petition must be dismissed.

Please direct any questions related to this decision to Petitions Attorney Charlema Grant, at (571) 272-3215.

This application is being referred to Technology Center AU 3753 for appropriate action by the Examiner in the normal course of business on the reply received.

/Kenneth M. Schor/

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

10-25-11
Kenpet9/

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DIANA HOUSTON
SMITH & NEPHEW, INC.
1450 E. BROOKS ROAD
MEMPHIS TN 38116

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Patent No. 7,858,296 :
Issue Date: December 28, 2010 :
Application No. 11/868,008 : ON PETITION
Filed: October 5, 2007 :
Attorney Docket No. HO-P02759US4 :

This is a decision on the petition filed April 11, 2011, under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The request is **DISMISSED**.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(h) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a required certificate of correction under § 1.323 of this chapter. The fee of $100 has been received. Petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

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.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-8300
ATTN: Office of Petitions

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

cc: Melissa L. Sistrunk
Fulbright & Jaworski, LLP
Fulbright Tower
1301 McKinney, Suite 5100
Houston, TX 77010-3095

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1450 E. BROOKS ROAD
MEMPHIS TN 38116

MAILED

JUN 20 2011

OFFICE OF PETITIONS

In re Patent No. 7,858,296 :
Issue Date: December 28, 2010 :
Application No. 11/868,008 : ON PETITION
Filed: October 5, 2007 :
Attorney Docket No. HO-P02759US4 :

This is a decision on the renewed petition filed June 7, 2011, 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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FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON TX 77267-4412

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JAN 24 2011

OFFICE OF PETITIONS

In re Application of :
Vladimir Marin et al. :
Application No. 11/868,033 : DECISION ON PETITION
Filed: October 5, 2007 :
Attorney Docket No. COS-933 DIV :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the 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 November 3, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination, with the required fee of $810, (2) the petition fee of $1,620, 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 1765 for appropriate action by the Examiner in the normal course of business on the reply received on January 5, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Paper No.

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of :
Xie :
Application No. 11/868,057 : ON APPLICATION FOR
Filed: October 5, 2007 : PATENT TERM ADJUSTMENT
Atty Docket No. 17405US05 :
Title: METHODS OF RECORDING :
VOICE SIGNALS IN A MOBILE SET :

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 July 27, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is three hundred and seventy-eight (378) days, not three hundred and thirty-four (334) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction partly on the basis that the Office will take in excess of three years to issue this patent. In addition, Applicant contends that one period of applicant delay was miscalculated.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not

undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, Applicant is advised that he may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, Applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

To the extent that Applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the request is **DISMISSED**.

A Notice of Allowance and Fees Due was mailed on May 5, 2010, concurrently with a Determination of Patent Term Adjustment under 35 U.S.C. 154(b), which indicated that the "Patent Term Adjustment to date is 334 day(s)." The instant application for patent term adjustment was timely filed[2] on or before payment of the issue fee.

Applicant argues that the two-day reduction that is associated with the filing of a response to a non-final Office action on February 8, 2010 is improper, and that no reduction is warranted.

The record supports a conclusion that any patent issuing from this patent is not subject to a terminal disclaimer.

Rule 1.704(b) sets forth, in pertinent part:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

A non-final Office action was mailed on November 6, 2009, and a response was not received until February 8, 2010, which is three months and two days later. As such, a reduction of two days was assessed. Applicant has argued that this is improper, that no reduction was warranted, and has cited to 37 CFR § 1.7(a). It is noted that February 6, 2010 fell on a Saturday, and as such, February 8, 2010 was the next succeeding business day. However,

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[2] PALM records indicate that the issue fee was subsequent to the filing of this petition on July 29, 2010.

Applicant will note that 35 U.S.C. 154(b)(2)(C)(ii)[3] does not require that a reply be filed in the Office within its three (3) month grace period, but simply specifies that there is a patent term adjustment reduction if a reply is not filed within this three (3) month period. Therefore, the "carry-over" provisions of 35 U.S.C. § 21(b)[4] does not apply to the three (3) month period in 35 U.S.C. 154(b)(2)(C)(ii).

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).

Applicant is reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and Applicant will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent. Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Director
Office of Petitions

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[3] "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."

[4] "When the day, or the last day, for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or a Federal holiday within the District of Columbia, the action may be taken, or fee paid, on the next succeeding secular or business day."

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Paper No.

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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MAR 16 2011

OFFICE OF PETITIONS

In re Patent No. 7,822,408	:	
Xie	:	DECISION ON
Issue Date: October 26, 2010	:	REQUEST FOR
Application No. 11/868,057	:	RECONSIDERATION OF
Filed: October 5, 2007	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 17405US05	:	

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 December 23, 2010, requesting that the patent term adjustment determination for the above-identified patent be changed from two hundred and ninety-seven (297) days to three hundred (300) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On October 26, 2010, the above-identified application matured into US Patent No. 7,822,408 with a patent term adjustment of 297 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The period of adjustment of 336 days of examination delay is not in dispute.

The over three-year period of 21 days is not in dispute.

The 0-day period of overlap between the examination delay and the B-delay is not in dispute.

Patentee contests a single period of applicant delay. More specifically, Patentee disputes when the reduction that is warranted pursuant to 37 C.F.R. § 1.704(c)(10) should have commenced.

37 CFR 1.704(c)(10) states that circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> "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 (emphasis added) and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
>
> (ii) Four months"

A notice of allowance was mailed on May 5, 2010. A Rule 1.312 amendment was filed on July 29, 2010, and a "Response to Rule 312 Communication" was mailed 57 days later on September 24, 2010.[1] This warrants a reduction of 58 (not 57) days pursuant to 37 C.F.R. § 1.704(c)(10), as the date on which the Rule 1.312 amendment was filed is included in the period of delay.

Patentee argues that the date on which the Rule 1.312 amendment was filed should not be included in the Rule 1.704(c)(10) calculation, and as such, the period of applicant delay that is associated with the submission of the Rule 1.312 amendment should total 57, not 58 days.

As a preliminary matter, Petitioner has requested that the patent term adjustment determination for this above-identified patent be changed to 300 days, however this math is incorrect. The sole issue that is raised in this petition is the issue of

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[1] On the second page of this petition, Patentee has listed this date as February 24, 2010. This appears to be a typographical error.

whether or not the date on which a Rule 1.312 is filed should be included in the delay that is warranted pursuant to 37 C.F.R. § 1.704(c)(10). Moreover, there was only one reduction pursuant to 37 C.F.R. § 1.704(c)(10) that was accorded during the prosecution of the application which matured into this patent. As such, were the Office to accord Patentee the relief he has requested, the patent term adjustment would be changed to 298 days, and not 300 days. It follows that this petition is being construed to contain an assertion that the patent term adjustment be changed to 298 days.

The Office holds that the day on which the Rule 1.312 amendment was filed is included in the Rule 1.704(c)(10) calculation.

Patentee will note the emphasized portion of 37 C.F.R. § 1.704(c)(10) that appears on the previous page. It follows that the proper manner of calculating the applicant delay pursuant to this Rule is to begin "on the date the amendment under § 1.312 or other paper was filed." As such, the date on which the Rule 1.312 amendment was filed is included in the period of delay.

Accordingly, Patentee is entitled to a patent term adjustment of 297 days:

	336 days of examination delay
+	21 days attributable to the Office taking in excess of 3 years to issue the patent
–	0 days of overlap
–	60 (2 + 58, not 2 + 57) days of Applicant delay. The two-day reduction pursuant to 37 C.F.R. § 1.704(b) was not disputed in this petition.

In view thereof, no adjustment to the patent term will be made.

Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[2] hand-delivery,[3] or facsimile.[4]

Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[5]

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3225.[6]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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[2] Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
[3] Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300: please note this is a central facsimile number.
[5] https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
[6] Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ATTILA MADY
2033 STAGECOACH ROAD
SANTA ROSA CA 95404

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Attila MADY	:	
Application No. 11/868,094	:	DECISION ON PETITION
Filed: October 05, 2007	:	
Attorney Docket No.	:	

This is a decision on the petition, filed April 02, 2010, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of August 31, 2009, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before November 31, 2009.

Petitioner states that a timely reply was mailed on September 21, 2009. As evidence petitioner has submitted a copy of the return postcard receipt from the Office with a date-stamped September 21, 2009, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of August 31, 2009 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on September 21, 2009.

Inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Technology Center AU 3772 for appropriate action in the normal course of business on the reply received with petition.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

MAILED

OCT 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Sang Gyu NAM	:	
Application No. 11/868,120	:	NOTICE PURSUANT TO
Filed: October 5, 2007	:	37 CFR § 1.28(c)
Attorney Docket No. **315584US8**	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-7353.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON DC 20006

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Application of :
Maurizio Curnis et al :
Application No. 11/868,128 : DECISION GRANTING PETITION
Filed: October 5, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 22106-00153-US :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, December 12, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 21, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2833 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/868,162	10/05/2007	John Rogers	24941	1474

24932 7590 02/09/2012
LAUBSCHER & LAUBSCHER, P.C.
1160 SPA ROAD
SUITE 2B
ANNAPOLIS, MD 21403

EXAMINER	
COOK, JONATHON	

ART UNIT	PAPER NUMBER
2886	

NOTIFICATION DATE	DELIVERY MODE
02/09/2012	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):

LLAUBSCHER@LAUBSCHERLAW.COM
info@laubscherlaw.com
asimonini@laubscherlaw.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

In re Patent No. ROGERS ET AL.
Issue Date: January 19, 2010
Appl No.: 11/868,162
Filed: October 05, 2007

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed on September 26, 2011 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Tarifur R. Chowdhury
Supervisory Patent Examiner
Art Unit 2886
Technology Center 2800

LAUBSCHER & LAUBSCHER, P.C.
1160 SPA ROAD
SUITE 2B
ANNAPOLIS, MD 21403

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Alexandria, VA 22313-1450
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MAILED

MAR 15 2011

OFFICE OF PETITIONS

DILLON & YUDELL LLP
8911 N. CAPITAL OF TEXAS HWY.
SUITE 2110
AUSTIN TX 78759

In re Application of	:	
David, Gregg A.	:	
Application No. 11/868,180	:	DECISION ON PETITION
Filed: October 5, 2007	:	
Attorney Docket No. END92007021US1	:	

This is a decision on the petition under 37 CFR 1.137(a), filed August 23, 2010, which is being more properly treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed April 20, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on November 23, 2010.

Petitioner asserts that the Office action dated April 20, 2010 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

(1) A statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable.

(2) A statement from the practitioner that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2448 for re-mailing the Office action of April 20, 2010. The period for reply will run from the mailing date of the Office action.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DILLON & YUDELL LLP
8911 N. CAPITAL OF TEXAS HWY.,
SUITE 2110
AUSTIN TX 78759

MAILED

JUN 15 2011

OFFICE OF PETITIONS

In re Application of :
David, Gregg A. :
Application No. 11/868,180 : ON PETITION
Filed: October 5, 2007 :
Attorney Docket No. END920070231US1 :

This is a decision on the Request for Correction to Decision on Petition, filed April 19, 2011.

The request is hereby **DISMISSED AS MOOT**.

The request states, "A decision on Petition was issued by your office on March 15, 2011, which incorrectly referenced and revived the present, above-referenced application, which Applicants had made go abandoned. Applicants respectfully note that the above-referenced application was erroneously revived instead of Application Ser. No. 11/776,353 (Atty. Doc. No RPS920070098US1)."

The request further states that it was readily apparent that the petition filed August 23, 2010 was not meant for the instant application, but clearly for Application No. 11/776,553. It is noted that the August 2010 petition did have the correct applicant and docket number for Application No. 11/776,553, but that the rest of the identifiers were that of the instant application, Application No. 11/868,180.

However, petitioner is correct in that the March 2011 petition decision was issued in error. Accordingly, the previous petition decision is hereby VACATED. The instant application remains abandoned.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED
MAR 15 2012
OFFICE OF PETITIONS

SPRINKLE IP LAW GROUP / ZIMMER
1301 W. 25TH STREET
SUITE 408
AUSTIN TX 78705

In re Application of	:	
LEMOINE, et al	:	
Application No. 11/868,183	:	DECISION ON PETITION
Filed: October 5, 2007	:	TO WITHDRAW
Attorney Docket No. ZIMM1350	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 15, 2012.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Katharina W. Schuster, has been revoked by the assignee of the patent application on February 13, 2012. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be sent to the address indicated below until otherwise notified by the applicant.

Inquiries concerning this decision should be directed to the undersigned at (571) 272- 6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SEAGER, TUFTE & WICKHEM, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : March 2, 2012

In re Application of :

Sivaramakrishnan Krishnamoorthy

Application No : 11868219

Filed : 05-Oct-2007

Attorney Docket No : CFDRCbet007

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 2, 2012

The request is **APPROVED.**

The request was signed by Tomas Friend (registration no. 54789) on behalf of all attorneys/agents associated with Customer Number 53371 . All attorneys/agents associated with Cusotmer Number 53371 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	CFD Research Corporation
Name2	Att.: Vincent Harrand
Address 1	215 Wynn Drive
Address 2	Suite 501
City	Huntsville
State	AL
Postal Code	35805
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	11868219
Filing Date	05-Oct-2007
First Named Inventor	Sivaramakrishnan Krishnamoorthy
Art Unit	1727
Examiner Name	ADAM ARCIERO
Attorney Docket Number	CFDRCbet007
Title	Hybrid Power Strip

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 53371

The reason(s) for this request are those described in 37 CFR:

10.40(c)(5)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	CFD Research Corporation Att.: Vincent Harrand
Address	215 Wynn Drive Suite 501
City	Huntsville
State	AL
Postal Code	35805
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Tomas Friend/
Name	Tomas Friend
Registration Number	54789

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHACHT LAW OFFICE, INC.
SUITE 202
2801 MERIDIAN STREET
BELLINGHAM, WA 98225-2412

MAILED
SEP 29 2011
OFFICE OF PETITIONS

In re Application of
David C. DeWaard
Application No. 11/868,234
Filed: October 5, 2007
Attorney Docket No.: P315028C

: 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 September 8, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the Application Data Sheet 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) and (iii) of the prior-filed application(s), unless previously submitted;[1]
> **(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.

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) 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(s). In order for this application to be entitled to the benefit of the prior-filed application(s), 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(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 1777 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning the status of the application should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
11/868,234	10/05/2007	1777	660	P315028C	29	2

CONFIRMATION NO. 1621

CORRECTED FILING RECEIPT

30662
SCHACHT LAW OFFICE, INC.
SUITE 202
2801 MERIDIAN STREET
BELLINGHAM, WA 98225-2412

Date Mailed: 09/22/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

David C. DeWaard, Lynden, WA;

Power of Attorney: The patent practitioners associated with Customer Number 22931

Domestic Priority data as claimed by applicant

This application is a CON of 10/918,618 08/12/2004 PAT 7,306,731
which claims benefit of 60/494,986 08/12/2003

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 10/22/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/868,234**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

MANURE SEPARATION FOR DIGESTER METHOD AND APPARATUS

Preliminary Class

210

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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P.O. Box 1450
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of :
Jung So Kim :
Application No. 11/868,244 : NOTICE
Filed: October 5, 2007 :
Attorney Docket No. **315581US8** :

This is a notice regarding your request filed September 8, 2008, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAYNES AND BOONE, LLP
IP SECTION
2323 VICTORY AVENUE
SUITE 700
DALLAS, TX 75219

MAILED

SEP 21 2010

OFFICE OF PETITIONS

In re Application of :
Howard Fox :
Application No. 11/868,254 : ON PETITION
Filed: October 5, 2007 :
Attorney Docket No. 40258.54 :

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 file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 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)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 8, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $405 and the submission required by 37 CFR 1.114, (2) the petition fee of $810and (3) an adequate 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 3738 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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FEB 23 2011

OFFICE OF PETITIONS

In re Application of	:	
Coelius et al.	:	DECISION ON PETITION
Application No. 11/868,291	:	TO WITHDRAW
Filed: October 5, 2007	:	FROM RECORD
Attorney Docket No. 2593.001US1	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 14, 2011.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> ***An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.***

Therefore, as there is currently no Statement under 37 CFR 3.73(b) of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is an outstanding Office action mailed August 5, 2010 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

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In re Patent No. 8,019,700 :
Issued: September 13, 2011 : DECISION ON REQUEST
Application No. 11/868,321 : FOR RECONSIDERATION
Filed: October 5, 2007 : OF PATENT TERM ADJUSTMENT
Attorney Docket No. 16113-0951001 :

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on November 14, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted from 776 to 907 days.

The petition to correct the patent term adjustment is **DISMISSED**.

BACKGROUND

On September 13, 2011, the above-identified application matured into U.S. Patent No. 8,019,700, with a revised patent term adjustment of 776 days. On November 14, 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 907. Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on May 6, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 131 day period from May 6, 2011 (the mailing date of the Notice of Allowance) until September 13, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 131 days and be increased from 154 to 285 days. Patentee concludes that the correct patent term adjustment is 907 days (the sum of 622 days of "A delay" and 285 days of "B 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 154 days based on the application having been filed under 35 U.S.C.

111(a) on October 5, 2007 and the patent not having issued as of the day after the three year date, October 5, 2010, and a request for continued examination under 132(b) having been filed on September 13, 2011. In other words, the 131-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is

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[1] Pursuant to 35 U.S.C. 132(b) , 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the

applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B

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[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not

entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years

[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on March 9, 2011, and the patent issued by virtue of that request on September 13, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on March 9, 2011 and ending on September 13, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 776 days indicated on the patent is correct.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Application of :
Kin-Ping Wong :
Application No. 11/868,349 : DECISION ON PETITION
Filed: October 5, 2007 : TO WITHDRAW
Attorney Docket No. ONCO-001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 4, 2010.

The request is **APPROVED**.

The request was signed by Carol L. Francis on behalf of the practitioners of record associated with Customer Number 24353.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to inventor Kin-Ping Wong at the address indicated below.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Kin Ping Wong
1757 East Quincy Avenue
Fresno, CA 93720

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/868,349	10/05/2007	Kin-Ping WONG	ONCO-001

CONFIRMATION NO. 1867

POWER OF ATTORNEY NOTICE

24353
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

Date Mailed: 08/23/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/04/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/868,349	10/05/2007	Kin-Ping WONG	ONCO-001

CONFIRMATION NO. 1867

Kin Ping Wong
1757 East Quincy Avenue
Fresno, CA 93720

POA ACCEPTANCE LETTER

OC000000043108305

Date Mailed: 08/23/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/04/2010.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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MAR 28 2011

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

In re Application of :
NGUYEN et al. :
Application No. 11/868,380 : DECISION ON PETITIONS
Filed: October 5, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 054769-5808 : AND 37 CFR 1.55(c)

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed December 23, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional application 09/555,640, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to a prior-filed foreign application FR 9715197, as set forth in the concurrently filed amendment.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All requirements being met with regards to application no. 09/555,640, the petition to accept an unintentionally delayed claim for benefit of priority to the prior-filed nonprovisional applications under 35 U.S.C. § 120 is acceptable.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition under 37 CFR 1.55(c) is **DISMISSED**.

The petition fails to comply with item (5) above. The file record of the above-identified application fails to show that the nonprovisional application 09/555,640 was filed within 12 months of the filing date of the foreign application. The file record of 09/555,640 suggests that international application PCT/FR98/02615 may be relevant to this period. If so, the international application should be included in the priority claim of the instant application.

Also, 37 CFR § 1.55(c) requires 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.55(c). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

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 between the date the claim was due

under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: MORGAN, LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

MAILED

AUG 12 2011

OFFICE OF PETITIONS

MORGAN LEWIS & BOCKIUS LLP (WA)
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of	:	
NGUYEN et al.	:	
Application No. 11/868,380	:	DECISION DISMISSING PETITION
Filed: October 5, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 045636-5033-01	:	AND 37 CFR 1.55(c)
	:	

This is a decision on the renewed petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed July 19, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional application 09/555,640, and under 35 U.S.C. § 119(a)-(d) for benefit of priority to a prior-filed foreign application FR 9715197, as set forth in the previously filed amendment.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All requirements being met with regards to application no. 09/555,640, the petition to accept an unintentionally delayed claim for benefit of priority to the prior-filed nonprovisional applications under 35 U.S.C. § 120 is acceptable.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6))**;
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition is **DISMISSED**.

The petition fails to comply with item (5) above. The file record of the above-identified application fails to show that the nonprovisional application 09/555,640 was filed within 12 months of the filing date of the foreign application. The file record of 09/555,640 suggests that international application PCT/FR98/02615 may be relevant to this period. If so, the international application should be included in the priority claim of the instant application.

The $1410.00 petition fee submitted with this renewed petition is unnecessary and will be refunded to petitioner's deposit account in due course.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

EGBERT LAW OFFICES
412 MAIN STREET, 7TH FLOOR
HOUSTON TX 77002

MAILED

FEB 01 2011

OFFICE OF PETITIONS

In re Application of :
Alves, et al. :
Application No. 11/868,409 : DECISION ON PETITION
Filed: October 5, 2007 :
Attorney Docket No. 1418-179 :

This is a decision on the petition captioned under 37 CFR 1.137(a), filed December 7, 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 constructive petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

This application was held abandoned for failure to reply to the Office action mailed December 15, 2009, which set a one (1) month or thirty day shortened statutory period for reply. A Notice of Abandonment was mailed on July 7, 2010.

Petitioner asserts that the Office action dated December 15, 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.

The showing required to establish non-receipt 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 non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt 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.

As applicants have filed an executed supplemental amendment with the present petition, it is unnecessary to re-mail the December 15, 2009. This application is being referred to the Technology Center Art Unit 3637 for consideration of the supplemental amendment filed with the present petition.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20100802

DATE : 6-3-10

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction for Appl. No.: 11868414 Patent No.: 7605969

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: NONE

/Ricky Mack/ — **SPE**

2873 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TASER INTERNATIONAL, INC.
17800 N. 85TH STREET
SCOTTSDALE AZ 85255-9603

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Application of :
Kevin Williams et al. :
Application No. 11/868,512 : DECISION ON PETITION
Filed: October 7, 2007 :
Attorney Docket No. 101.00329 :

This is a decision on the petitions under the unintentional provisions of 37 CFR 1.137(b), filed December 23, 2010 and January 3, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 20, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed September 20, 2010. Accordingly, the date of abandonment of this application is December 21, 2010. A Notice of Abandonment was mailed on 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 payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

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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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 :
Larry Morris et al. :
Application No. 11/868,595 :
Filed: October 8, 2007 :
Attorney Docket No. **149-0200US** :

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed May 16, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks the name of the first inventor or the assignee of record that is associated with the address listed in the request. Therefore, the change of correspondence address is considered improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS TX 75374-1715

MAILED

MAR 10 2011

OFFICE OF PETITIONS

In re Patent No. 7,819,316 :
Issued: October 26, 2010 :
Application No. 11/868,599 : ON PETITION
Filed: October 8, 2007 :
Attorney Docket Number: RPXC-28,398 :

This is a decision on the petition filed January 28, 2011, under 37 CFR 3.81(b)[1], to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the assignee is RPX-LV ACQUISITION LLC, WILMINGTON, DE (US), and seeks to correct an error on the face of the patent. Petitioner does not indicate that the failure to include the correct assignee name on the Fee(s) Transmittal form PTOL-85(b) was inadvertent however it will be so construed. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front 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 request is accompanied by a certificate of correction. Office assignment records reflect that the name of the assignee is RPX-LV ACQUISITION LLC. Accordingly, as

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[1] *See* Official Gazette of June 22, 2004

the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue and the certificate of correction will be issued in the name of RPX-LV ACQUISITION LLC.

The petition fee and fee for the certificate of correction have been applied.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GREENBERG TRAURIG (LV)
3773 HOWARD HUGHES PARKWAY
SUITE 400 NORTH
LAS VEGAS NV 89169

MAILED
JUN 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Todd Lewis NEAL	:	
Application No. 11/868,663	:	DECISION ON PETITION
Filed: October 08, 2007	:	
Attorney Docket No. 122068.012200	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 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, September 13, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of September 13, 2010 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 3716 for appropriate action by the Examiner in the normal course of business on the reply received

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis MN 55402

MAILED
JAN 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Frits Prinzen, et al.	:	
Application No. 11/868,767	:	DECISION GRANTING PETITION
Filed: October 8, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 279.884US2	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, January 19, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 16, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3766 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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DICKE BILLIG & CZAJA
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS, MN 55402

MAILED

NOV 3 0 2010

OFFICE OF PETITIONS

In re Application of :
Udo Ausserlechner :
Application No. 11/868,845 : ON PETITION
Filed: October 8, 2007 :
Attorney Docket No. 2007P52157US/1560.146.101

This is a decision on the petition, filed November 29, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 4, 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 2829 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).

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12-01-11

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/868909 Patent No.: 8034595

CofC mailroom date: 11-18-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

Angela Green 571.272.9005
CofC Branch 703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: Approved

SPE Manjunath **Art Unit** 1656

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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HARNESS, DICKEY & PIERCE P.L.C.
5445 CORPORATE DRIVE
SUITE 200
TROY MI 48098

MAILED

DEC 19 2011

OFFICE OF PETITIONS

In re Application of :
Hugh Walsh :
Application No. 11/868,950 : DECISION ON PETITION
Filed: October 8, 2007 :
Attorney Docket No. MP1370 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 8, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before September 29, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed June 29, 2011. Accordingly, the date of abandonment of this application is September 30, 2011. A Notice of Abandonment was mailed on October 19, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,740, (2) the petition fee of $1,860, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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 the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

cc: Michael D. Wiggins
P.O. Box 828
Bloomfield Hills, MI 48303

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
DEC 05 2011
OFFICE OF PETITIONS

LOTTOCHECK CORPORATION
49 CAYMUS STREET
RICHMOND HILL ON L4B 4G3 CA CANADA

In re Application of	:	
Randhawa	:	
Application No. 11/868,975	:	ON PETITION
Filed: October 9, 2007	:	
Attorney Docket No. LC-011	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 26, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

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 nonfinal Office action mailed November 19, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (2) above.

Application No. 11/868,975

The petition is dismissed because of insufficient funds by applicant. The Office received a total of $810.00 for the above petition on September 26, 2011. However, the new fee schedule went into effect on September 26, 2011. Therefore, a balance of $120.00 (930-$810) remains.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LOTTOCHECK CORPORATION
49 CAYMUS STREET
RICHMOND HILL ON L4B 4G3 CA
CANADA

MAILED

MAR 20 2012

OFFICE OF PETITIONS

In re Application of
Bhupinder Randhawa
Application No. 11/868,975
Filed: October 9, 2007
Attorney Docket No. LC-011

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 5, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action mailed November 19, 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 3714 for appropriate action by the Examiner in the normal course of business on the reply received September 26, 2011.

/KOC/
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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APR 09 2012
OFFICE OF PETITIONS

US Naval Research Laboratory
4555 Overlook Ave, SW
Washington DC 20375

In re Application of :
Walton, et al. :
Application No. 11/868,979 : ON PETITION
Filed: October 9, 2007 :
Attorney Docket No. **98455-US2**

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2012, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned on November 2, 2011, for failure to file a proper reply to the final Office action mailed August 1, 2011, which set a shortened statutory period for reply of three (3) months from its mailing date. A Notice of Abandonment was mailed February 29, 2012.

The Request for Continued Examination filed February 28, 2012, is noted.

The fee for the Request for Continued Examination was paid twice. The amount of $930.00 will be refunded, in due course.

The application file is being forwarded to Technology Center, GAU 1713 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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SAP AG C/O BUCKLEY,
MASCHOFF & TALWALKAR LLC
50 LOCUST AVENUE
NEW CANAAN CT 06840

MAILED

OCT 03 2011

OFFICE OF PETITIONS

In re Application of :
Knieisel, et al. :
Application No. 11/869,091 : DECISION
Filed/Deposited: 9 October, 2007 :
Attorney Docket No. 2007P00318US :
(S21.008)

This is a decision on the petition filed on 2 September, 2011, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

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 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 Notice of Allowance/Allowability and Fees Due (drawings) mailed on 4 April, 2011, with reply due under a non-extendable deadline on or before 5 July, 2011.

The application went abandoned by operation of law after midnight 5 July, 2011.

The Office mailed the Notice of Abandonment on 19 July,2011.

Application No. 11/869,091

On 2 September, 2011, Petitioner filed a petition (with fee) pursuant to 37 C.F.R. §1.137(b) with a reply in the form of drawings due (also pointing to the previously filed fees due), and 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]

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.

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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, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[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 Publications Branch to be processed into a patent in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision. It is noted that all inquiries with regard to status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

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[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).

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.

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Joseph Fischer, Esquire
Beusse Wolter Sanks Mora & Maire, P.A.
390 North Orange Avenue, Suite 2500
Orlando FL 32801

MAILED

MAY 3 1 2011

OFFICE OF PETITIONS

In re Application of :
Francesco Beradi et al. :
Application No. 11/869,136 : DECISION ON PETITION
Filed: October 9, 2007 :
Attorney Docket No. 10500-017 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 2, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 25, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 26, 2010. A Notice of Abandonment was mailed on March 14, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $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 1621 for appropriate action by the Examiner in the normal course of business on the reply received May 2, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : October 5,2011

In re Application of :

Hideo Watanabe

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11869169

Filed : 09-Oct-2007

Attorney Docket No : KOT-0314

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed October 5,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid 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 2874 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	11869169
Filing Date	09-Oct-2007
First Named Inventor	Hideo Watanabe
Art Unit	2874
Examiner Name	OMAR ROJAS
Attorney Docket Number	KOT-0314
Title	INKJET HEAD MANUFACTURING METHOD AND INKJET HEAD

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	/Daniel P. Lent/
Name	Daniel P. Lent
Registration Number	44867

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IBM CORP. (WIP)
C/O WALDER INTELLECTUAL PROPERTY LAW, P.C.
17330 PRESTON ROAD
SUITE 100B
DALLAS TX 75252

MAILED
OCT 17 2011
OFFICE OF PETITIONS

In re Application of :
Steven Larcombe :
Application No. 11/869,200 : DECISION ON PETITION
Filed: October 9, 2007 :
Attorney Docket No. AU920060005US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 10, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 5, 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 April 6, 2011. A Notice of Abandonment was mailed July 20, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,860.00, and (3) a proper statement of unintentional delay.

Further, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Technology Center AU 2191 for appropriate action by the Examiner in the normal course of business on the reply received.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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GODFREY & KAHN S.C.
780 NORTH WATER STREET
MILWAUKEE WI 53202

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JAN 10 2011

OFFICE OF PETITIONS

In re Application of :
John J. Riley et al. :
Application No. 11/869,334 : ON PETITION
Filed: October 9, 2007 :
Attorney Docket No.: 071869-0031 :

This is a decision on the petition under 37 CFR 1.182, filed September 24, 2010, to change the order of the names of the inventors.

The petition is **GRANTED**.

The instant petition has been submitted with an updated Application Data Sheet.

The order of the names of the inventors has been changed as follows:

(1) John J. Riley;
(2) Richard Alan Feigold

A corrected filing receipt reflecting the correct order of the names of the inventors was mailed on November 5, 2010.

This matter is being referred to the Publishing Division.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of :
JUNG, et al :
Application No. 11/869,413 : DECISION ON PETITION
Filed: October 9, 2007 : TO WITHDRAW
Attorney Docket No. QQ1-0172US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 25, 2011.

The request is **NOT APPROVED.**

The request to withdraw from record cannot be approved because the request to change the correspondence address is not accompanied by a power of attorney nor is the correspondence address that of an assignee of the entire interest who has been properly made of record under 37 CFR 3.71 or the first named inventor.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

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SUITE 1200
WASHINGTON DC 20005-4051

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MAR 14 2011

OFFICE OF PETITIONS

In re Application of :
Snaidr, et al. : DECISION ON PETITION
Application No. 11/869,475 :
Filed: October 9, 2007 :
Atty. Dkt. No.: 000417.00038 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed February 9, 2011.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

The application became abandoned January 2, 2011 for failure to timely submit a proper reply in response to the Pre-Brief Appeal Conference Decision (Decision) mailed July 1, 2010. The Decision indicated that applicants were to proceed to Board of Patent Appeals and Interferences. The Decision advised that the time period for filing the appeal brief would be reset to be one month from mailing the Decision, or the balance of the two-month time period running from the receipt of the Notice of Appeal, whichever is greater. The Decision further indicated that the time period for filing of the appeal brief was extendible under 37 CFR 1.136 based upon the mail date of the Decision or the receipt date of the Notice of Appeal. An Information Disclosure Statement (IDS) and drawings were submitted November 30, 2010. A Notice of Abandonment was prematurely mailed December 9, 2010. The Notice of Abandonment was premature in that at the time of its mailing on December 9, 2010, the time period for reply to the Decision was still extendible under 37 CFR 1.136(a). A reply to the Decision, including five month extension of time, was filed December 29, 2010. The reply consisted of an amendment to enter drawings, a Request for Continued Examination, an IDS, and a Notice of Appeal.

The reply filed December 29, 2010 was not a proper reply to the Decision mailed July 2, 2010. While an RCE can be a proper reply filed in lieu of an Appeal Brief, the RCE must include a proper submission.

In accordance with 37 CFR 1.114(c), a submission includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new

arguments, or new evidence in support of patentability. However, if a reply to an Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of § 1.111.

As the instant application was under final rejection, a submission in the form of a reply meeting the requirements of 37 CFR 1.111 was required. The IDS, Notice of Appeal, and amendment to enter drawings filed December 29, 2001 did not meet the requirements of 37 CFR 1.111. Accordingly, the application is properly abandoned and the holding of abandonment cannot be withdrawn.

Any request for reconsideration must establish that a proper to the Decision was timely submitted.

ALTERNATE VENUE

Petitioners are strongly encouraged to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required 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 facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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SUITE 1200
WASHINGTON DC 20005-4051

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of
Snaidr, et al.
Application No. 11/869,475
Filed: October 7, 2007
Attorney Docket No. 000417.00038

: ON PETITION

This is a decision on the petition renewed under the unintentional provisions of 37 CFR 1.137(b), filed March 23, 2011, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned January 2, 2011 for failure to timely submit a proper reply in response to the Pre-Brief Appeal Conference Decision (Decision) mailed July 1, 2010. The decision indicated that applicants were to proceed to Board of Patent Appeals and Interferences. the Decision advised that the time period for filing the appeal brief would be reset to be one month from mailing the Decision, or the balance of the two-month time period running from the receipt of the Notice of Appeal, whichever is greater. The Decision further indicated that the time period for filing of the appeal brief was extendible under 37 CFR 1.136 based upon the mail date of the Decision or the receipt date of the Notice of Appeal. An Information Disclosure Statement (IDS) and drawings were submitted November 30, 2010. A Notice of Abandonment was prematurely mailed December 9, 2010. The Notice of Abandonment was premature in that at the time of its mailing on December 9, 2010, the time period for reply to the Decision was still extendible under 37 CFR 1.136(a). A reply to the Decision, including five month extension of time, was filed December 29, 2010. The reply consisted of an amendment to enter drawings, a Request for Continued Examination, an IDS, and a Notice of Appeal. A petition under 37 CFR 1.181 was filed February 9, 2011 and dismissed March 14, 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 petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including fee and submission

required by 37 CFR 1.114; (2) the required petition fee; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 1747 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/09/11

TO SPE OF : ART UNIT 3731

SUBJECT : Request for Certificate of Correction for Appl. No.: 11869499 Patent No.: 8029532

CofC mailroom date: 11/30/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Director's/SPE response to 571-273-3421

Note: **Please check Claims 2, 4, 6, 7 and 13**
Should the changes to 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: _____

S. Thomas Hughes — 3731

S. Thomas Hughes

SPE — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/09/11

TO SPE OF : ART UNIT 3731

SUBJECT : Request for Certificate of Correction for Appl. No.: 11869499 Patent No.: 8029532

CofC mailroom date: 11/30/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: **Please check Claims 2, 4, 6, 7 and 13**
Should the changes to 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: _____

S. Thomas Hughes — 3731

S. Thomas Hughes

SPE — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

Neugeboren O'Dowd PC
1227 Spruce Street
SUITE 200
BOULDER CO 80302

MAILED
DEC 23 2011
OFFICE OF PETITIONS

In re Application of Robert Charles Hartman, John Elton Dietrich II, Jeffrey James Finn, and Rodney Dean Holm Application No. 11/869,552 Filed: October 9, 2007 Attorney Docket No. ESFT.001.03US Title: MANAGED SERVICES PLATFORM	:	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.183

This is in response to the petition filed pursuant to 37 C.F.R. § 1.183 on November 21, 2011. Petitioner seeks the entry of a concurrently filed Rule 1.131 declaration, and seeks the waiver of the requirement present in 37 C.F.R. § 1.131 that each of the inventors sign the declaration of prior inventorship.

This petition pursuant to 37 C.F.R. § 1.183 is **DISMISSED**.

BACKGROUND

The above-identified application was filed on October 9, 2007, with a 37 C.F.R. § 1.63 declaration signed by each of the four joint inventors. On May 26, 2011, a final Office action was mailed. As part of the response to this Office communication which was submitted on July 21, 2011, Applicants filed a "DECLARATION UNDER 37 CFR § 1.131," so as to attempt to overcome certain rejections contained in the final Office action. An advisory action was mailed on August 10, 2011, which indicated, *in pertinent part*, that the aforementioned Rule 1.131 declaration could not be accepted as, *inter alia*, it was not

properly executed, *i.e.* signed by each of the four joint inventors.

With this petition, Petitioner has submitted a Rule 1.131 declaration that has been signed by Messrs. Hartman, Dietrich, and Finn. A Rule 1.131 declaration that has been executed by Mr. Holm has not been included with this petition.

Petitioner has filed this petition, seeking the acceptance of the Rule 1.131 declaration without the signature of Mr. Holm: Petitioner has indicated that the signature of joint inventor Holm has not been obtained, and that he has refused to execute the same.[1]

RELEVANT REGULATIONS AND PORTION OF THE MPEP

37 C.F.R. § 1.183 sets forth, *in toto*:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

37 C.F.R. § 1.131(a) sets forth, *in pertinent part*:

> When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.

In addition, MPEP § 715.04(I)(B) sets forth, *in toto*:

> An affidavit or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection. For example, one of two joint inventors is accepted where it is shown that one of the joint inventors is the sole inventor of the claim or claims under rejection.

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1 Petition, page 2. See also Exhibit 1, e-mail dated October 21, 2011.

ANALYSIS

Here, there has not been a party qualified under 37 C.F.R. §§ 1.42, 1.43, or 1.47. In addition, Petitioner does not contend that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the proper parties to sign the revised Rule 1.131 declaration include all of the joint inventors.

This petition cannot be granted, as Petitioner has not asserted, much less established, the existence of an extraordinary situation such that justice requires the waiver of the requirement that the 37 C.F.R. § 1.131 declaration be executed by each joint inventor.

On renewed petition, Petitioner will need to assert the existence of an extraordinary situation, such that justice requires the waiver of the requirement that each inventor must execute the Rule 1.131 declaration.

Petitioner will note that 37 C.F.R. § 1.47(a) is not directly applicable to the current set of facts, however it does involve a parallel set of circumstances - the unavailability of an inventor.

The applicable requirements of 37 C.F.R. § 1.47(a) are:

- a statement of the last known address of each non-signing inventor, and;

- either
  - proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to each non-signing inventor for review and proof that each non-signing inventor refuses to join in the application or
  - proof that each non-signing inventor cannot be found or reached after diligent effort.

With this petition, Petitioner has provided the last known address of Mr. Holm,[2] and established that a copy of the declaration was sent vie E-mail to Mr. Holm, and Mr. Holm declined to execute the same.

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2 Petition, page 2.

It does not appear that a complete copy of the application was sent to the last-known address of Ms. Holm. Where a refusal of an inventor to sign the application papers is alleged, the Office requires the petitioner to establish that a bona fide attempt was made to mail a complete copy of the application, which entails the specification, claims, drawings, and oath or declaration.[3] Since the petition is silent as to any presentation of the application to the non-signing joint inventor, this requirement has not been met.

It follows that since it has not been shown that a complete copy of the application was sent to the inventor, one cannot refuse to sign something which one has not seen. A refusal by an inventor to sign a 37 C.F.R. § 1.131 declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before this petition is granted since such a procedure ensures that the non-signing inventor is apprised of the application to which the Rule 1.131 declaration is directed.

Before filing the renewed petition, Petitioner should mail a complete paper copy[4] of the application to the non-signing joint inventor, and provide him with a reasonable period of time to respond. Petitioner should note that any statement that pertains to the presentation should be made by one having firsthand knowledge of the event. Statements based on hearsay are not normally accepted.

Alternatively, if Petitioner is able to secure the signature of this individual on the Rule 1.131 declaration, the submission of the same would be considered fully responsive to this decision.

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3 See MPEP § 409.03(d).

4 The transmission of documents via Email, while a common practice, can be problematic. Transmission and receipt of documents-whether in image, word-processing, spreadsheet or other form-can be affected by differences in software generation between the sender and recipient(s), and other interferences include but are not limited to sender's and recipient's Internet service provider's (ISP) and/or office/personal security firewall systems. Thus, in the absence of an express statement from a non-signing inventor(s) that he/she/they have received, opened and read a document, unlike a printed page in the language of the recipient there is as of this writing no basis to presume that an e-mailed document was in a form that can be read and comprehended.

If Petitioner is not able to secure the signature of this individual on the Rule 1.131 declaration, Petitioner must then indicate the steps taken to obtain this individual's signature on the Rule 1.131 declaration.

CONCLUSION

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted.** The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.183." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any subsequent filing pertaining to this matter should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[5] hand-delivery,[6] or facsimile.[7] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[8]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[9] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

---

5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300: please note this is a central facsimile number.
8 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
9 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
FEB 06 2012
OFFICE OF PETITIONS

Neugeboren O'Dowd PC
1227 Spruce Street
SUITE 200
BOULDER CO 80302

In re Application of	:	
Robert Charles Hartman, John Elton Dietrich II, Jeffrey James Finn, and Rodney Dean Holm	:	DECISION ON RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.183
Application No. 11/869,552	:	
Filed: October 9, 2007	:	
Attorney Docket No. ESFT.001.03US	:	
Title: MANAGED SERVICES PLATFORM	:	

This is in response to the renewed petition pursuant to 37 C.F.R. § 1.183, filed on January 27, 2012. Petitioner seeks the entry of a preveniently filed Rule 1.131 declaration, and seeks the waiver of the requirement present in 37 C.F.R. § 1.131 that each of the inventors sign the declaration of prior inventorship.

This renewed petition pursuant to 37 C.F.R. § 1.183 is **GRANTED**.

The above-identified application was filed on October 9, 2007, with a 37 C.F.R. § 1.63 declaration signed by each of the four joint inventors. On May 26, 2011, a final Office action was mailed. As part of the response to this Office communication which was submitted on July 21, 2011, Applicants filed a "DECLARATION UNDER 37 CFR § 1.131," so as to attempt to overcome certain rejections contained in the final Office action. An advisory action was mailed on August 10, 2011, which indicated, *in pertinent part*, that the aforementioned Rule 1.131 declaration could not be accepted as, *inter alia*, it was not properly executed, *i.e.* signed by each of the four joint inventors.

A petition pursuant to 37 C.F.R. § 1.183 was filed on November 21, 2011, along with the petition fee and a Rule 1.131 declaration that was signed by Messrs. Hartman, Dietrich, and Finn. A Rule 1.131 declaration that has been executed by Mr. Holm was not included with the original petition. The original petition pursuant to 37 C.F.R. § 1.183 was dismissed via the mailing of a decision on December 23, 2011.

With this renewed petition, Petitioner has asserted the existence of an extraordinary situation, such that justice requires the waiver of the requirement that each inventor must execute the Rule 1.131 declaration. Moreover, Petitioner has established that justice requires the waiver of 37 C.F.R. § 1.131(a), to the extent that the Rule 1.131 declaration that was filed on November 21, 2011 is accepted without the signature of Mr. Holm.

With this renewed petition, Petitioner has established that a complete paper copy of the application was sent to Mr. Holm on January 19, 2012, it was received by Mr. Holm on January 23, 2012, and on January 25, 2012, Mr. Holm contacted Petitioner telephonically and orally refused to sign the Rule 1.131 affidavit.

The renewed petition is granted to the extent that the Rule 1.131 declaration of November 21, 2011 may be entered, despite the fact that the requirement that all of the inventors sign the declaration has not been satisfied. **This is not a decision on the merits of the declaration.**

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the present application can receive further processing in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : February 7, 2012

TO SPE OF : ART UNIT 2472
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/869589, Patent No.: **7903615**

Co f C mailroom date: 2-1-12

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: _____

_____

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: _____

_____

_____

/Hassan Kizou/ — **SPE**
2472 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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STATTLER-SUH PC / NETLOGIC
60 SOUTH MARKET STREET
SUITE 480
SAN JOSE, CA 95113

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Patent No. 7,679,345 :
Issue Date: March 16, 2010 :
Application No. 11/869,595 : NOTICE
Filed: October 9, 2007 :
Attorney Docket No. AELU.P0019

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : **8027632**
Ser. No. : **11/869639**
Inventor(s) : **MAZAR, SCOTT T.**
Issued : **09/27/2011**
Title : **SYSTEMS, DEVICES, AND METHODS FOR SELECTIVELY PREVENTING DATA TRANSFER FROM A MEDICAL DEVICE**
Docket No. : **279.B15US2**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

In regards to the alleged error(s) in the Specification, Column 2 Line 56 the word preevaluation doesn't appear.

In view of the foregoing, your request, in this matter, is hereby denied.

A Certificate of Correction can be issued to correct this error if the correct Column and Line number is included in the C of C request. A Certificate of Correction will be issued for the remaining errors.

Omega Lewis
For Mary Diggs
Decisions & Certificates
Of Correction Branch
(703)756-1575 or (703) 756-1814

SCHWEGMAN, LUNDBERG & WOESSNER/BSC-CRM
PO BOX 2938
MINNEAPOLIS MN 55402

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UNITED STATES PATENT AND TRADEMARK OFFICE

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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of :

Thomas L. ZAMPINI, et al :
Application No. 11/869,663 : DECISION ON PETITION
Filed: October 9, 2007 : TO WITHDRAW
Attorney Docket No. 2007719-0016 (12S-011) : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed November 24, 2010.

The request is **NOT APPROVED.**

The Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have a power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to documents they file.

The request cannot be approved because the change of correspondence address is to a new practitioner or law firm, however, is not accompanied by a proper power of attorney.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCKENNA LONG & ALDRIDGE, LLP
1900 K STREET, NW
WASHINGTON, DC 20006

MAILED

OCT 18 2011

OFFICE OF PETITIONS

In re Application of :
Brad E. Meyers :
Application No. 11/869,683 :DECISION ON PETITION
Filed: October 9, 2007 :TO MAKE SPECIAL UNDER
Attorney Docket No. 33278.00005.US13 : 37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 6, 2011, to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from the attorney of record, Randall C. Pyles, that the sole inventor 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 3641 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 Technology Center 3600 at (571) 272-3600.

Andrea Smith
Petitions Examiner
Office of Petitions

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BRUCE E. HAYDEN, P.C.
P.O. BOX 205
DILLION CO 80435-0205

MAILED

SEP 09 2011

OFFICE OF PETITIONS

In re Application of :
Jay A. Aaronson :
Application No. 11/869,725 : DECISION ON PETITION
Filed: October 9, 2007 :
Attorney Docket No. **BEH070902** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 19, 2011, to revive the above-identified application.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Rajesh V. Fotedar 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, Rajesh V. Fotedar 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 Rajesh V. Fotedar, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 18, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 19, 2010.

An applicant cannot Request Continued Examination (RCE) of an application until after prosecution in the application is closed. See 37 CFR 1.114(a). Prosecution in an application is closed if the application is under appeal, or the last Office action is a final action (37 CFR 1.113), a notice of allowance (37 CFR 1.311), or an action that otherwise closes prosecution in the application (e.g., an Office action under Ex parte Quayle, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935)). *See 37 CFR 1.114(a).* Therefore, since the RCE has been prematurely filed it is deemed to be improper response and will not be entered.

However, as the reply captioned as "PRELIMINARY AMENDMENT" included therewith will be considered as the response to the non-final Office action of August 18, 2010. Accordingly, the $405 RCE filing fee will be refunded to petitioner's deposit account as authorized.

The petition is hereby **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of preliminary 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 571-272-4584

This application is being referred to Technology Center AU 3693 for appropriate action by the Examiner in the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Rajesh V. Fotedar
Chapin IP Law, LLC
1700 W. Park Drive
Suite 280
Westboro, MA 01581

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/1/2011

TO SPE OF : ART UNIT 2454 Avellino Joseph (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/869746 Patent No.: 7908395

CofC mailroom date: 6/16/2011

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: _____

_____

H. Rld

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: _____

Joseph B Avellino

SPE

2454

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

WARD & OLIVO
382 SPRINGFIELD AVENUE, SUITE 305
SUMMIT, NJ 07901

MAILED

DEC 30 2010

OFFICE OF PETITIONS

In re Application of :
Antonio GALLERANO, et *al.* :
Application No. 11/869,805 : DECISION ON PETITION
Filed: October 10, 2007 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **060889-5053-US** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 10, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit corrected formal drawings on or before July 19, 2010, as required by the Notice to File Corrected Applications Papers (Notice of Allowance Mailed), mailed May 19, 2010. Accordingly, the date of abandonment of this application is July 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 corrected formal drawings , (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

The drawings have been made of record in the application.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to the Office of Data Management Division for processing into a patent.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

MAILED
APR 18 2011
OFFICE OF PETITIONS

In re Application of :
Rodriguez et al. :
Application No. 11/869,828 : DECISION ON PETITION
Filed: October 10, 2007 :
Attorney Docket No. :
AUS920050526US2

This is a decision on the petition, filed September 22, 2010, requesting that the requirement of a signature of an unavailable inventor on a declaration under 37 CFR 1.131 be waived.

The petition is **DISMISSED**.

Petitioner states that "[s]pecifically, in the Declaration under 37 C.F.R. § 1.131, Inventors Newton James Smith and Clifford Jay Spinac each declared and stated that "[i]t is my understanding that co-inventor Herman Rodriguez died on or about February 19, 2009." Therefore, Herman Rodriguez is an unavailable inventor."

As set forth in MPEP § 715.04, Where one or more of the named inventors of the subject matter of the rejected claim(s) (who had originally signed the oath or declaration for patent application under 37 CFR 1.63) is now unavailable to sign an affidavit or declaration under 37 CFR 1.131, the affidavit or declaration under 37 CFR 1.131 may be signed by the remaining joint inventors provided a petition under 37 CFR 1.183 requesting waiver of the signature of the unavailable inventor be submitted with the affidavit or declaration under 37 CFR 1.131. Proof that the non-signing inventor is unavailable or cannot be found similar to the proof required for a petition under 37 CFR 1.47 must be submitted with the petition under 37 CFR 1.183 (see MPEP § 409.03(d)).

In regard to the proof that the non-signing inventor is unavailable, required under 37 CFR 1.47, a required element is that the unavailable inventor "cannot be found or reached after diligent effort" or refuses to "join in an application." However, MPEP § 409.03(c) notes that the language "cannot be found or reached after diligent effort" has no reasonable application

to a deceased inventor. In re Application Papers Filed September 10, 1954, 108 USPQ 340 (Comm'r Pat. 1955). Accordingly, Herman Rodriguez cannot be regarded as an unavailable inventor.

However, as noted in MPEP 409.01 legal representative(s) of the deceased inventor may act on behalf of the deceased inventor. 37 CFR 1.47 does apply where a known legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application. The instant petition has failed to demonstrate with a documented showing that a legal representative of the deceased inventor cannot be found or reached after diligent effort.

37 CFR 1.183 states that only in an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte,* or on petition of the interested party, subject to such other requirements as may be imposed. For reasons set forth above, petitioner, has not, however, shown an extraordinary circumstance where justice requires suspension of the rules. The instant petition is therefore **DISMISSED**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this decision may be directed to the undersigned at (571) 272-4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NEC LABORATORIES AMERICA, INC.
4 INDEPENDENCE WAY
SUITE 200
PRINCETON NJ 08540

MAILED

JAN 17 2012

OFFICE OF PETITIONS

In re Application of :
Dai, et al. :
Application No. 11/869,906 : DECISION
Filed/Deposited: 10 October, 2007 :
Attorney Docket No. 06054 :

This is a decision on the petition filed on 5 October, 2011, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

The petition pursuant to 37 C.F.R. §1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision or any petition in the alternative is to be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment," and/or "Renewed Petition under 37 C.F.R. §1.137(b)."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

Petitioner does not appear to have addressed properly the requirements under the rule.

Any deficiencies must be overcome.

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the non-final Office action mailed on 17 February, 2011, with reply due absent extension of time on or before 17 May, 2011.

The application went abandoned by operation of law after midnight 17 May, 2011.

The Office mailed the Notice of Abandonment on 30 September, 2011.

On 5 October, 2011, Petitioner filed a petition pursuant to 37 C.F.R. §1.137(b), without the proper fee or fee authorization, with a reply in the form of an amendment and made a statement of delay not consistent with the regulation—on any renewed petition, Petitioner will wish to use the form available at the Office website.

Thus, Petitioner failed to comply with the requirements under the Rule.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18, formerly §10.18, to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

As to Allegations of
Unintentional Delay

As indicated above, the requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a proper reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

As discussed above, it does not appear that Petitioner has satisfied the requirements under the rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II) as to a petition pursuant to 37 C.F.R. §1.137.

---

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[4] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[5] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MOORE AND VAN ALLEN PLLC FOR SEMC
P.O. BOX 13706
430 DAVIS DRIVE, SUITE 500
RESEARCH TRIANGLE PARK NC 27709

MAILED
NOV 10 2011
OFFICE OF PETITIONS

In Re application of
Johan Anders Apelqvist
Application No. 11/869,912
Filed: October 10, 2007
Attorney Docket No. PS07 1053US1.943

ON PETITION

This is a decision on the petition under 37 CFR 1.59(b), filed August 24, 2011 to expunge information from the above identified application.

The petition is **granted**.

Petitioner requests that the amendment, filed August 22, 2011, be expunged from the record. Petitioner states that the papers submitted were erroneously filed in the instant application.

The information in question has been determined by the undersigned to not be material to the examination of the instant application. The information was clearly intended to be filed in a different application.

The expunged material has been removed from the official file.

In accordance with MPEP 724.05(III), no petition is needed since the papers in question were clearly identified for a different application.

Telephone inquiries relative to this decision should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOWARD N. SOMMERS
22613 JAMESON DRIVE
CALABASAS CA 91302

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Genser, Mathias	:	
Application No. 11/869,913	:	ON PETITION
Filed: October 10, 2007	:	
Attorney Docket No. MAGEN-78188	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 27, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment and a Terminal Disclaimer, (2) the petition fee, and (3) a proper statement of unintentional delay.

As the Power of Attorney was only recently given to the petitioner, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 2161 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOWARD N. SOMMERS
22613 JAMESON DRIVE
CALABASAS CA 91302

MAILED
MAY 04 2011
OFFICE OF PETITIONS

In re Application of	:	
Genser, Mathis	:	
Application No. 11/869,913	:	ON PETITION
Filed: October 10, 2007	:	
Attorney Docket No. MAGEN-78188	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue fee, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,585,889 B2
Ser. No. : 11/870,002
Inventor(s) : Maxey et al.
Issued : Sep. 8, 2009
Title : INTERNAL 1,15-LACTONES OF FLUPROSTENOL AND RELATED PROSTAGLANDIN $F_{2\alpha}$ ANALOGS AND THEIR USE IN THE TREATMENT OF GLAUCOMA AND INTRAOCULAR HYPERTENSION
Docket No. : 7919.3004.005 (CAYMN-8823
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

PIETRAGALLO GORDON ALFANO BOSICK & RASPANTI LLP
ONE OXFORD CENTRE, 38TH FLOOR
301 GRANT STREET
PITTSBURGH PA 15219-6404

MAILED

NOV 04 2011

OFFICE OF PETITIONS

In re Patent No. 7,585,889 :
Issue Date: September 8, 2009 :
Application No. 11/870,002 : ON PETITION
Filed: October 10, 2007 :
Attorney Docket No. **7919.3004.005** :
(CAYMN-8823

This is a decision on the petition filed October 17, 2011, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests to correct the assignee's name by way of a certificate of correction in the name of "Cayman Chemical Company, Incorporated".

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that a corrective assignment to correct the assignee name from "Cayman Chemical Company, Inc." to "Cayman Chemical Company, Incorporated" was recorded June 13, 2011, **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

Telephone inquiries concerning this decision on petition should be directed to undersigned at (571) 272-4584.

JoAnne Burke
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	11870012
Filing Date	10-Oct-2007
First Named Inventor	Peter Reba
Art Unit	3748
Examiner Name	AUDREY BRADLEY
Attorney Docket Number	04737-P0005B
Title	DUAL INJECTOR SYSTEM FOR DIESEL EMISSIONS CONTROL

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 24126

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	TENNECO AUTOMOTIVE OPERATING COMPANY INC. c/o HARNESS DICKEY & PIERCE PLC
Address	P.O. BOX 828
City	BLOOMFIELD HILLS
State	MI
Postal Code	48303
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Todd M. Oberdick/
Name	Todd M. Oberdick
Registration Number	44268

UNITED STATES 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 21,2011

In re Application of :

Peter Reba

Application No : 11870012

Filed : 10-Oct-2007

Attorney Docket No : 04737-P0005B

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 21,2011

The request is **APPROVED.**

The request was signed by Todd M. Oberdick (registration no. 44268) on behalf of all attorneys/agents associated with Customer Number 24126 . All attorneys/agents associated with Cusotmer Number 24126 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	TENNECO AUTOMOTIVE OPERATING COMPANY INC.
Name2	c/o HARNESS DICKEY & PIERCE PLC
Address 1	P.O. BOX 828
Address 2	
City	BLOOMFIELD HILLS
State	MI
Postal Code	48303
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MESCHKOW & GRESHAM, P.L.C.
7250 NORTH SIXTEENTH STREET, SUITE 318
PHOENIX AZ 85020-5279

MAILED

SEP 29 2011

OFFICE OF PETITIONS

In re Application of :

McCallister, et al. :

Application No. 11/870,021 : DECISION ON PETITION

Filed: October 10, 2007

Attorney Docket No. 2298-170

This is a decision on the petition under 37 CFR 1.137(b), filed September 27, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed February 3, 2011. The final Office action set a shortened statutory period for reply of three months from its mailing date. A response was not received with the allowable period, and the application became abandoned on May 3, 2011.

The Request for Continued Examination filed September 27, 2011, is noted.

The application file is being forwarded to Technology Center 2600, GAU 2611 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHOATE, HALL & STEWART LLP
Patent Department
Two International Place
Boston MA 02110

MAILED
DEC 15 2010
OFFICE OF PETITIONS

In re Application of :
Julian Adams et al. :
Application No. 11/870,130 :
Filed: October 10, 2007 :
Attorney Docket No. **2008074-0008** :

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 November 16, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because the Office no longer accept address changes to a new practitioner/customer number or law firm filed with a request, absent the filing of a power of attorney to the new representative.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, 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/
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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Jones Day
222 E. 41st Street
New York NY 10017

MAILED
APR 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Adams et al.	:	
Application No. 11/870130	:	ON REQUEST FOR
Filing or 371(c) Date: 10/10/2007	:	RECONSIDERATION OF
Atty Docket No.:	:	PATENT TERM ADJUSTMENT
12928-001-999/765398-001	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT, filed March 28, 2011. Applicants submit that the correct Patent Term Adjustment is 329 days, not 262 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is

advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and ***must*** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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STEPTOE & JOHNSON PLLC
400 White Oaks Boulevard
Bridgeport WV 26330

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Application of	:	
James E. Smith, et al.	:	
Application No. 11/870,140	:	DECISION ON PETITION
Filed: October 10, 2007	:	TO WITHDRAW
Attorney Docket No. 970120/00030DIV-A	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 29, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael B. Pallay. Michael B. Pallay has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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Alexandria, VA 22313-1450
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Paper No.

MORRISS OBRYANT
COMPAGNI, P.C.
734 EAST 200 SOUTH
SALT LAKE CITY UT 84102

MAILED

FEB 16 2011

OFFICE OF PETITIONS

In re Application of :
Jon Carpenter : DECISION ON
Application No. 11/870,147 : PETITION
Filed: October 10, 2007 :
Atty Docket No. 4093.JCAR.NP :

This is in response to the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)," filed December 22, 2010. Petitioner states that if the petition under 1.137(a) is denied, then consideration under 1.137(b) is requested.

The petition under § 1.137(a) is **DISMISSED**.

Any renewed petition must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR §1.137(a)" or "Renewed Petition under 37 CFR §1.137(b)," as appropriate. Extensions of time under 37 CFR §1.136(a) are permitted.

Consideration of the petition under §1.137(b) is being held in abeyance pending petitioner's further response to this decision.

The above-identified application became abandoned effective December 23, 2009 for failure to file a reply to the non-final Office action mailed September 22, 2009. A courtesy Notice of Abandonment was mailed on March 30, 2010. Petitioner asserts that the entire delay was unavoidable due to being hospitalized

from October 29, 2009 through April 7, 2010, and describes his medical condition during that time.

37 CFR 1.137(a) provides that:

If the delay in reply by applicant or patent owner was unavoidable, a petition may be filed pursuant to this paragraph to revive an abandoned application. A grantable petition pursuant to this paragraph must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(l);
(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition includes payment of the petition fee set forth in 37 CFR § 1.17(l), and the required reply in the form of an amendment. No terminal disclaimer is required for revival of this application.

However, the petition is not grantable because it does not satisfy requirement (3) above. Petitioner's showing does not meet their burden of establishing that the delay was unavoidable. Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities,

> there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

A showing of medical incapacitation may meet the burden of establishing that the delay was "unavoidable." A showing of "unavoidable" delay based upon incapacitation must establish that petitioner's incapacitation was of such a nature and degree as to render petitioner unable to conduct business (e.g., work with attorney on drafting response) during the relevant period. The circumstances described on petition as to applicant's medical condition are generally persuasive that the delay was unavoidable. However, such statements are made by the attorney of record and not by a treating physician. In this instance, a statement supporting a conclusion that applicant was hospitalized from October 29, 2009 through April 7, 2010 and under such a medical condition as stated on petition signed by a treating physician may be sufficient to meet this burden. This statement need not be detailed as to applicant's specific medical conditions to protect applicant's privacy and confidentiality. It can be short as one or two sentences as long as it substantiates the severity of the condition as detailed on petition.

The petition cannot presently be granted as petitioner has not met his burden of showing that the delay was unavoidable.

Instead of providing a statement from a physician, petitioner may simply request that the Office act on the petition under 37 CFR 1.137(b). The Office will then charge the fee for such consideration and act on the petition under 37 CFR 1.137(b).

Further correspondence with respect to this decision should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By fax:	(571) 273-8300 ATTN: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No.
MAILED
APR 21 2011
OFFICE OF PETITIONS

MORRISS OBRYANT
COMPAGNI, P.C.
734 EAST 200 SOUTH
SALT LAKE CITY UT 84102

In re Application of :
Jon Carpenter : ON PETITION
Application No. 11/870,147 :
Filed: October 10, 2007 :
Atty Docket No. 4093.JCAR.NP :

This is in response to the "RENEWED PETITION TO REVIVE UNDER § 1.137(A)," filed April 4, 2011. Petitioner states that if the renewed petition under 1.137(a) is denied, then consideration under 1.137(b) is requested.

The renewed petition under § 1.137(a) is **GRANTED**.

Consideration of the petition under §1.137(b) is unnecessary. Accordingly, no fee has been charged for such consideration.

The above-identified application became abandoned effective December 23, 2009 for failure to file a reply to the non-final Office action mailed September 22, 2009. A courtesy Notice of Abandonment was mailed on March 30, 2010.

On initial petition, petitioner asserted that the entire delay was unavoidable due to being hospitalized from October 29, 2009 through April 7, 2010, and describes his medical condition during that time. By decision mailed February 16, 2011, the petition was dismissed. The petition included payment of the petition fee set forth in 37 CFR § 1.17(l), and the required reply in the form of an amendment. No terminal disclaimer is required for revival of this application.

However, the petition was not granted as Petitioner's showing did not meet his burden of establishing that the delay was unavoidable. Specifically, to show unavoidable delay based on medical incapacitation, a statement from a treating physician supporting a conclusion that applicant was hospitalized from October 29, 2009 through April 7, 2010 and under such a medical condition to substantiate the severity of the condition as detailed on petition was needed.

On renewed petition, petitioner submitted a statement from a treating physician attesting to the hospitalization and to the severity of his medical condition during the relevant period. Having considered the facts and circumstances of the abandonment as set forth on petition and in light of the additional evidence submitted on renewed petition, it is concluded that petitioner has met his burden of establishing that the entire delay from the due date for the reply until the filing of a grantable petition was unavoidable.

Technology Center AU 3689 has been advised of this decision. The application is, thereby, forwarded for consideration by the examiner of the amendment submitted on petition filed December 22, 2010.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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NASA GODDARD SPACE FLIGHT CENTER
8800 GREENBELT ROAD, MAIL CODE 140.1
GREENBELT, MD 20771

MAILED
OCT 04 2010
OFFICE OF PETITIONS

In re Application of :
Steven A. Curtis :
Application No. 11/870,190 : DECISION ON PETITION
Filed: October 10, 2007 :
Attorney Docket No. GSC 15,317-1 :

This is a decision on the petition, filed August 18, 2010, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

Petitioner requests the Notice of Abandonment mailed July 15, 2010 for failure to respond to the non-final Office action be withdrawn as petitioner timely filed a response. Petitioner states that a timely reply was timely filed with a certificate of mailing on June 22, 2010, which included the following papers: an amendment with a certificate of mailing of June 18, 2010 and a request for a three (3) month extension of time. The original reply is now in the file.

As the reply authorized the charging of a three (3) month extension of time due the Notice of Abandonment was premature. Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of December 18, 2009 is hereby **withdrawn** and the application **restored to pending status**.

Telephone inquiries concerning this decision should be directed to April M. Wise at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1711 for processing of the reply received with June 22, 2010.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 18, 2011

TO SPE OF : ART UNIT 2129

SUBJECT : Request for Certificate of Correction for Appl. No.: 11870201 Patent No.: 7877344

CofC mailroom date: March 7, 2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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 7/6/2011

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THOMAS C. DOEPKER
1105 SADDLE CREEK TRAIL
BULL VALLEY IL 60050

MAILED

APR 25 2011

OFFICE OF PETITIONS

In re Application of :
John B. Doepker et al. :
Application No. 11/870,239 :
Filed: October 10, 2007 :
Attorney Docket No. **32055-72782** :

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 March 17, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks the name of the first inventor or the assignee of record that is associated with the address listed in the request. Therefore, the change of correspondence address is considered improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOSEPH L. STRABALA
LAW OFFICES OF JOSEH L. STRABALA
37768 S. DESERT BLUFF DRIVE
TUCSON AZ 85739

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Application of
Susan Lin
Application No. 11/870,257
Filed: October 10, 2007
Attorney Docket No. 1861.1

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 November 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. 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 Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "Client . . . has failed to to file a change of attorney . . .", does not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Applicant is encouraged to update the application file by way of a filing of a revocation of power of attorney or change of correspondence address if necessary, for proper handling of this patent application.

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: Wayne W. Montgomery, Esq.
4147 Frandon Ct.
Palo Alto, CA 94306

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FULBRIGHT & JAWORSKI L.L.P
2200 ROSS AVENUE
SUITE 2800
DALLAS, TX 75201-2784

MAILED

SEP 23 2010

OFFICE OF PETITIONS

In re Application of	:	
William E. Steele, IV, et al.	:	DECISION REFUSING STATUS
Application No. 11/870,302	:	UNDER 37 CFR 1.47(a)
Filed: October 10, 2007	:	
Atty Docket No.: 64120/P001CP1/10715044	:	

This is a decision in response to the petition, filed January 25, 2008, under the provisions of 37 CFR 1.47(a). The delay in responding is regretted; however, the petition was recently referred to the Office of Petitions for consideration.

The petition is **GRANTED**.

Petitioner has shown that joint inventor Clarence D. Zierhut 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 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 application is being forwarded to Technology Center 3781 for appropriate action, including notifying applicant of the new status of this application.

Telephone inquiries regarding 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

Commissioner for Patents
United States Patent and Trademark Office
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In re Application of
Ralph Zuckerman

Application No. 11870355

Filed: October 10,2007

Attorney Docket No. 92856-00011

:
:
:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)
:

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 24-MAY-2011 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

Doc code : PET.OP.AGE
Description : Petition to make special based on Age/Health

PTO/SB/130 (07-09)
Approved for use through 07/31/2012. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	11870355	Confirmation Number	4722	Filing Date	2007-10-10
Attorney Docket Number (optional)	092856.00011	Art Unit	1657	Examiner	S. K. Singh
First Named Inventor	Ralph Zuckerman				
Title of Invention	APPARATUS FOR THE NON-INVASIVE MEASUREMENT OF TISSUE FUNCTION AND METABOLISM BY DETERMINATION OF STEADY-STATE FLUORESCENCE ANISOTROPY				

Attention: Office of Petitions

An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

Name of Inventor who is 65 years of age, or older

Given Name	Middle Name	Family Name	Suffix
Ralph		Zuckerman	

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the format of the signature.

Select (1) or (2) :

○ (1) I am an inventor in this application and I am 65 years of age, or more.

● (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

Signature	/Kenneth Ma 63,839/	Date (YYYY-MM-DD)	2011-05-24
Name	Kenneth Ma	Registration Number	63839

PTO/SB/130 (07-09)
Approved for use through 07/31/2012. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Fr eedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about indivi duals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

J.A. Lindeman & Co. PLLC
3190 Fairview Park Drive
Suite 480
Falls Church VA 22042

MAILED

JUL 12 2011

OFFICE OF PETITIONS

In re Application of :
Taylor G. Wang :
Application No. 11/870,366 : DECISION ON PETITION
Filed: October 10, 2007 : TO WITHDRAW
Attorney Docket No. **009.0002-US01 CIP** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed June 27, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because the requested change in the correspondence address is improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Therefore, as there is currently no Statement under 37 CFR 3.73(b) with the current assignee information of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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QUINN LAW GROUP, PLLC
39555 ORCHARD HILL PLACE
SUITE 520
NOVI MI 48375

MAILED
AUG 10 2011
OFFICE OF PETITIONS

In re Application of :
Andrew W. Phillips et al. :
Application No. 11/870,456 : DECISION ON PETITION
Filed: October 11, 2007 :
Attorney Docket No. **P000935-PTT-DLT** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 15, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed August 25, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 26, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a election, (2) the petition fee of $1620, and (3) an adequate statement of unintentional delay. Accordingly, the reply to the restriction August 25, 2010 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 3655 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NOV 18 2010

OFFICE OF PETITIONS

SCHLUMBERGER RESERVOIR COMPLETIONS
14910 AIRLINE ROAD
Bldg. 14
ROSHARON, TX 77583

In re Application of :
Jacques Orban :
Application No. 11/870,483 : ON PETITION
Filed: October 11, 2007 :
Attorney Docket No.: A-10504 :

This is a decision on the petition, filed September 24, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is not signed by a registered practitioner of record. However, in accordance with 37 CFR 1.34(a), the signature of Kevin Brayton McGoff appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. .

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 2, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed December 2, 2009. A Notice of Abandonment was mailed on March 19, 2010. In response, on September 24, 2010, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and publication fee of $300; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT PLOTKIN, PC
15 New England Executive Office Park
Burlington, MA 01803

MAILED

OCT 22 2010

OFFICE OF PETITIONS

In re Application of :
Jonathan P. Ruby :
Application No. 11/870,497 : ON PETITION
Filed: October 11, 2007 :
Attorney Docket No. A0007-1001 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 8, 2010, to revive the above-identified application.

The application became abandoned for failure to file a reply to the Notice of Allowance and Fee(s) Due mailed on May 26, 2010. A Notice of Abandonment was mailed September 13, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $755 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Data Management for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MAILED
JAN 30 2012
OFFICE OF PETITIONS

Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza, Suite 300
Garden City NY 11530

In re Patent No. 7,947,706 :
Issue Date: May 24, 2011 :
Application No. 11/870,640 : DECISION ON PETITION
Filed: October 11, 2007 :
Attorney Docket No. 26814Z :

This is a decision on the Petition Under 37 C.F.R. §3.81(b) And Request For Certificate Of Correction Under 37 C.F.R. §1.323, filed October 27, 2011, to identify the correct assignee's 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 urges that the present Petition was submitted to correct the assignee's residence (City and State or Country) on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner urges that a Certificate of Correction (PTO/SB/44) be issued to correct the assignee's residence to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i) have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) submitted with Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,947,706.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/870,683	10/11/2007	Nicolas VOYER	316019US2	5370

7590 11/04/2010

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
CHO, UN C	

ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
11/04/2010	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.

Patent Publication Branch
Office of Data Management

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/29/11

TO SPE OF : ART UNIT 1767

SUBJECT : Request for Certificate of Correction for Appl. No.: 11870721 Patent No.: 7842349

CofC mailroom date: 01/11/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

_____
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: - None -

SPE - 1767

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HAHN LOESER / LINCOLN
ONE GOJO PLAZA, SUITE 300
AKRON, OH 44311-1076

MAILED
MAR 15 2011
OFFICE OF PETITIONS

In re Application of :
Paul A. WEISSBROD :
Application No. 11/870,774 : DECISION GRANTING PETITION
Filed: October 11, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **201990.00123** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 14, 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 3, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3654 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.*

OK TO ENTER: /L.L./ 02/29/2012

PTO/SB/44 (09-07)
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 8,019,150 B2

APPLICATION NO.: 11/870,904

ISSUE DATE : September 13, 2011

INVENTOR(S) : Sergey N. Bezryadin

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:

Col. 21 lines 17-18
~~In Claim 24, lines 11-12~~, please change "orthonoinial" to --orthonormal--.

Col. 22 line 19
~~In Claim 27, line 11~~, please change "comprises" to --provides--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Haynes and Boone, LLP
2323 Victory Avenue, Suite 700
Dallas, Texas 75219-7673

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

OK TO ENTER: /L.L./ 02/29/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Sergey N. Bezryadin		
Assignee:	KWE International, Inc.		
Title:	COLOR QUANTIZATION BASED ON DESIRED UPPER BOUND FOR RELATIVE QUANTIZATION STEP		
Patent No.:	8,019,150 B2	Issue Date:	September 13, 2011
Serial No.:	11/870,904	Filing Date:	October 11, 2007
Examiner:	Li Liu	Group Art Unit:	2624
Docket No.:	M-16918 US	Confirmation No.:	5769

San Jose, California
February 7, 2012

ATTN: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION

Dear Sir:

The Patentee submits herewith Form PTO/SB/44 for the above-identified patent. This submission corrects minor errors.

In Claim 24, lines 11-12, please change "orthonoinial" to --orthonormal--.

In Claim 27, line 14, please change "comprises" to --provides--.

The Patentee requests a Certificate of Correction or an otherwise corrected patent to correct the errors identified on Form PTO/SB/44 submitted herewith. No new matter has been added.

No fee is believed to be required. If a fee is required, please charge the fee to Deposit Account No. 08-1394. If any questions remain or anything further is required to correct this patent, please contact the undersigned at (408) 660-4120.

Respectfully submitted,

Dated: February 7, 2012

By: Michael Shenker
Michael Shenker
Attorney for Applicant
Reg. No. 34,250

Haynes and Boone, LLP
IP Section
2323 Victory Avenue, Suite 700
Dallas, Texas 75219
Telephone: 408.660.4120
Facsimile: 214.200.0853
ipdocketing@haynesboone.com

FILED VIA EFS
CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office (USPTO) via the USPTO's EFS-Web electronic filing system on February 7, 2012.

Erika Wong — February 7, 2012
Erika Wong — Date of Signature

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
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 8,019,150 B2

APPLICATION NO.: 11/870,904

ISSUE DATE : September 13, 2011

INVENTOR(S) : Sergey N. Bezryadin

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 Claim 24, lines 11-12, please change "orthonoinial" to --orthonormal--.

In Claim 27, line 14, please change "comprises" to --provides--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Haynes and Boone, LLP
2323 Victory Avenue, Suite 700
Dallas, Texas 75219-7673

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Date Mailed : July 13, 2011

Patent No. : 7879559
Inventor : Alderete et al.
Patent Issued : February 1, 2011
Title : METHOD AND DEVICE FOR TRICHOMONAS DETECTION

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.

Review of the application file reveals that correspondence to support entry of reference data, item (56) of Title page as noted in applicants' request for correction is not found in the records of the Patent and Trademark office. Accordingly, a signed and dated copy of applicants 1449 or PTO-892 which reflects the requested references considered by the examiner is required for further consideration. If omitted references were submitted by applicant, a copy of the receipt obtained from this office should be included.

In view of the foregoing, applicants request is hereby denied. Any telephone inquiries concerning this communication should be directed to Ms. A. Green at (571) 272-9005.

Mary Diggs, Supervisor
Decisions and Certificates of
Correction Branch
(703) 756-1580 or (571) 272- 9005

Myers, Bigel, Sibley & Sajovec
P.O. Box 37428
Raleight, NC 27627

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