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Craig Hallacher
Continental Teves
One Continental Drive
Auburn Hills MI 48326

MAILED

AUG 11 2011

PCT LEGAL ADMINISTRATION

In re Application of :
LOHBERG, Peter, et al. :
Application No.: 11/920,480 :
PCT No.: PCT/EP2006/062375 :
Int. Filing Date: 17 May 2006 :
Priority Date: 17 May 2005 :
Att. Docket No.: AP 11217 :
For: ARRANGEMENT FOR :
INTRINSICALLY SAFE DETECTION :
OF A WHEEL ROTATIONAL SPEED :

DECISION

This decision is in response to applicant's petition under 37 CFR 1.137(b), filed in the United States Patent and Trademark Office on 22 June 2011.

BACKGROUND

On 02 December 2008, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors

On 10 May 2010, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements mailed 02 December 2008.

On 22 June 2011, applicants submitted the petition under 37 CFR 1.137(b) accompanied by a declaration of the inventors.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) 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, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Items (1), (3) and (4) have been satisfied.

As to item (2), the required response is an oath or declaration in compliance with 37 CFR 1.497(a)-(b). The declaration of the inventors is not a USPTO form, but it bears a USPTO form number. The certification under 37 CFR 10.18(b) in the 22 June 2011 declaration is invalid. The declaration is being treated as unsigned correspondence.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

This application remains **ABANDONED**.

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

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DEC 14 2011

PCT LEGAL ADMINISTRATION

Craig Hallacher
Continental Teves
One Continental Drive
Auburn Hills MI 48326

In re Application of :
LOHBERG, Peter, et al. :
Application No.: 11/920,480 :
PCT No.: PCT/EP2006/062375 :
Int. Filing Date: 17 May 2006 : DECISION
Priority Date: 17 May 2005 :
Att. Docket No.: AP 11217 :
For: ARRANGEMENT FOR :
INTRINSICALLY SAFE DETECTION :
OF A WHEEL ROTATIONAL SPEED :

This decision is in response to applicant's petition under 37 CFR 1.137(b), filed in the United States Patent and Trademark Office on 10 October 2011.

BACKGROUND

On 11 August 2011, the Office mailed Decision On Petition Under 37 CFR 1.137(d) dismissing applicants' petition without prejudice.

On 10 October 2011, applicants submitted this renewed petition under 37 CFR 1.137(b) accompanied by a new declaration of the inventors.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) 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, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Items (1), (3) and (4) have been satisfied.

Item (2) has now been satisfied. The 10 October 2011 declaration complies with 37 CFR 1.497(a)-(b).

CONCLUSION

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

This application is being referred to the National Phase Processing Branch of the Office of Patent Application Processing for further action consistent with this decision.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

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H. JAY SPIEGEL - H. JAY SPIEGEL & ASSOCIATES
P.O. BOX 11
MOUNT VERNON VA 22121

MAILED

JUL 21 2011

OFFICE OF PETITIONS

In re Application of :
Thomas C. Moore et al. :
Application No. 11/920,524 : DECISION ON PETITION
Filed: November 15, 2007 :
Attorney Docket No. ASC-25 :

This is a decision on the petition under 37 CFR 1.137(a), filed March 14, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment (Notice) mailed August 16, 2010, which set a one (1) month or thirty day shortened statutory period for reply. A Notice of Abandonment was mailed on March 7, 2011.

Petitioner asserts that the Notice dated August 16, 2010 was not received.

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

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 Notice 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 Notice was not received.

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

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

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

Accordingly, absent the required evidence to establish nonreceipt of the Notice of August 16, 2010, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

Since a petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment has no fee, the petition fee of $270 will be refunded to petitioner.

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

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

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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H. JAY SPIEGEL - H. JAY SPIEGEL & ASSOCIATES
P.O. BOX 11
MOUNT VERNON VA 22121

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AUG 17 2011

OFFICE OF PETITIONS

In re Application of	:	
Thomas C. Moore et al.	:	
Application No. 11/920,524	:	DECISION ON PETITION
Filed: November 15, 2007	:	
Attorney Docket No. ASC-25	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to reply to the Notice of Non-Compliant Amendment (Notice) mailed August 16, 2010 which set a one (1) month or thirty day shortened statutory period for reply. Notice of Abandonment was mailed on March 7, 2011.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-6842.

This application is being referred to Technology Center AU3766 for appropriate action by the Examiner in the normal course of business on the reply received

Carl Friedman
Petitions Examiner
Office of Petitions

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22474
CLEMENS BERNARD PLLC
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Charlotte, NC 28211

MAILED

MAY 10 2011

PCT LEGAL ADMINISTRATION

In re Application of
GUTT *et al*
U.S. Application No.: 11/920,585
PCT No.: PCT/EP2006/062311
Int. Filing Date: 15 May 2006
Priority Date: 20 May 2005
Docket No.: 4770
For: MULTICOLORED INTERIOR TRIM COMPONENTS

DECISION

This is a decision on the papers filed 06 July 2010 which are treated as a second renewed petition under 37 CFR 1.497(d) and the petition to withdraw the holding of abandonment filed on 10 March 2011.

BACKGROUND

On 17 June 2010, a decision dismissing applicants' petition pursuant to 37 CFR 1.497(d) was mailed. Applicants were given two months to respond with extensions of time available.

On 06 July 2010, applicants filed a statement under 37 CFR 3.73(b) and a copy of a recorded assignment.

On 07 March 2011, a Notice of Abandonment was mailed for failure to timely respond to the Decision mailed 17 June 2010.

On 10 March 2011, applicants filed a petition to withdraw the holding of abandonment.

DISCUSSION

Petition to Withdraw the Holding of Abandonment

A review of the subject application shows that applicants timely responded to the

Decision mailed 17 June 2010 on 06 July 2010.[1]

As such, the Notice of Abandonment mailed 07 March 2011 was inappropriate and is hereby **VACATED**.

Applicants' petition to withdraw the holding of abandonment is **GRANTED**.

Second Renewed Petition Under 37 CFR 1.497(d)

The papers filed 06 July 2010 are treated as a second renewed request to add Stefan RIESINGER as an inventor pursuant to 37 CFR 1.497(d).

Applicants failed to satisfy item (3) of 37 CFR 1.497(d) in the prior petition filed 28 August 2009. Applicants included the written consent of the assignee, Polytec Interior GmBH; however, applicants did not provide 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, or provide a statement specifying where the chain of title is recorded in the assignment records of the Office as required.

In the second renewed petition, applicants submitted a statement under 37 CFR 3.73(b) detailing the recordation of the assignment in the subject application and providing the reel and frame number of the assignment as requested. A copy of a recorded assignment was also provided. A review of the application verifies that an assignment to Polytec Interior GmBH was properly recorded on 25 August 2008. This is sufficient to satisfy item (3) of 37 CFR 1.497(d).

All items of 37 CFR 1.497(d) are now complete.

CONCLUSION

Applicants' second renewed request to add Stefan RIESINGER as an inventor pursuant to 37 CFR 1.497(d) is **GRANTED**.

The declaration filed 28 August 2009 is in compliance with 37 CFR 1.497(a)-(b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 15 May 2006 under 35 U.S.C.

---

[1] It is noted that the cover letter titled "Response to Decision on Petition" submitted with the request to withdraw the holding of abandonment on 10 March 2011 was not located in the file as being received on 06 July 2010. Nonetheless, the "Statement under 37 CFR 3.73(b)" and copy of the recorded assignment are a sufficient response to the prior Decision mailed 17 June 2010.

363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 28 August 2009.

This application is being forwarded to the DO/EO/US for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/920,590	03/31/2008	Laufey Amundadottir	30847/2066-004	3937

4743 7590 06/17/2011

MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-6357

EXAMINER	
KAPUSHOC, STEPHEN THOMAS	
ART UNIT	**PAPER NUMBER**
1634	

NOTIFICATION DATE	DELIVERY MODE
06/17/2011	ELECTRONIC

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

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

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

mgbdocket@marshallip.com

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JUN 1 7 2011

David A. Gass
MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357

In re Application of	:
Amundadottir et al	:Decision on Petition
Serial No.:11/920,590	:
Filed: 31 March 2008	:
Attorney Docket No.:30847/2066-004	:

This letter is in response to the Petition filed on 23 May 2011 under 37 C.F.R. 1.144 requesting that the restriction requirement dated 4 March 2010 be withdrawn.

BACKGROUND

On 4 March 2010, the examiner required an election between Group I, methods and Group II, products. Within group I, the examiner required an election of a single specific combination of markers or haplotypes.

On 30 April 2010, applicants elected Group I and particular marker "rs1447295" with traverse.

On 23 June 2010, the examiner considered the traversal and made the restriction requirement final. Claims 4-6, 25 and 56 were withdrawn from consideration under 37 CFR 1.142(b). Claims 1-3, 7-21, 23, 29, 31, 35, 39, 44-47 and 57-59 were examined on the merits.

On 22 March 2011, the examiner mailed a final action where new claims 88 and 100 were withdrawn from consideration as being directed to non-elected inventions and claims 85-87, 89-99 and 101-116 were examined on the merits.

On 23 June 2011, applicants filed this petition.

DISCUSSION

The application, file history and petition have been considered carefully. Relevant claims are set forth below:

> 85. (New) A method of diagnosing a susceptibility to prostate cancer in a human subject, the method comprising:
>
> screening nucleic acid from a sample from the subject for the presence or absence of at least one allele of marker rs1447295 or a marker in chromosome 8q24.21 linkage disequilibrium (LD) Block A that is in linkage disequilibrium with rs1447295, and
>
> diagnosing a susceptibility to prostate cancer from the presence or absence of the marker allele, wherein the presence of the allele is indicative of a susceptibility to prostate cancer.
>
> 86. (New) The method of claim 85, wherein the method comprises: screening the nucleic acid for at least one allele of a marker in Table 13.
>
> 100. (New) The method of Claim 85 that comprises screening the nucleic acid for an allele of a marker or a haplotype that comprises one or more markers associated with Chr8q24.21 in strong linkage disequilibrium, as defined by ($|D'| > 0.8$) and/or $r^2 > 0.2$, with marker rs1447295.

Claims 86 and 100 have withdrawn from consideration for encompassing non-elected markers. It is noted that claim 86 and 100 depend from claim 85 and thereby require the elected species of "rs1447295."

Claim 86 refers to Table 13 which is found on pages 101-104 of the specification and includes these two entries which correspond with the elected marker. For this reason, Claim 86 reads upon the elected invention.

SG08S993	rs1447296	C
SG08S993	rs1447296	T

MPEP 821.03, final paragraph states that withdraw by original presentation is not applicable where applicant amends the claims such that the elected species is cancelled, or where applicant

presents claims that could not have been restricted from the claims drawn to other elected invention had they been presented earlier. Similarly, Claim 100 encompasses embodiments generic to the elected invention. For these reasons, claims 86 and 100 should have been examined in the Office action mailed 22 March 2011.

Finally, concerning the propriety of the further lack of unity requirement made between the markers and haplotypes of Group I, on 9 February 2011, the Office issued A Federal Register Notice entitled "Supplemental Examination Guidelines for Determining Compliance with 35 U.S.C. 112 and for treatment of Related Issues in Patent Applications." Page 7166 sets forth guidelines for the treatment of Markush-type claims:

> "Under principles of compact prosecution, the examiner should also require the applicant to elect a species or group of indistinct species for search and examination (*i.e.*, an election of species).52 If the examiner does not find the species or group of indistinct species in the prior art, then the examiner should extend the search to those additional species that fall within the scope of a permissible Markush claim. In other words, the examiner should extend the search to the species that share a single structural similarity and a common use. The improper Markush claim should be examined for patentability over the prior art with respect to the elected species or group of indistinct species, as well as the species that share a single structural similarity and a common use with the elected species or group of indistinct species (*i.e.*, the species that would fall within the scope of a proper Markush claim)."

In view of these new guidelines, the further lack of unity applicable to Group I is unwarranted and is hereby replaced with a provisional election of species requirement.

DECISION

Accordingly, the petition under 37 CFR 1.144 is **GRANTED**.

The restriction requirement made between Group I and II is maintained. All pending claims are directed to the method of Group I.

The further lack of unity requirement applicable to Group I has been withdrawn and re-instated as a provisional election of species requirement. Applicant's claims will be examined in view of the election of "rs1447295."

Because the final Office action did not address dependent claims 86 and 100 on the merits, it is considered incomplete. The finality of the Office action mailed 22 March 2011 has been withdrawn.

The application will be returned to the examiner for preparation of a supplemental Office action consistent with this decision which addresses all pending claims on the merits. Markush type claims, such as 85 and 86 are to be examined in accordance with the 9 February 2011 Federal Register Guidelines and in the guidance in MPEP 803.02.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at 571-273-8300.

Jacqueline Stone
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/920,669	11/19/2007	Yuan-Yong Yan	P04054US2A	8703

48985 7590 02/14/2011
BRIDGESTONE AMERICAS, INC.
1200 FIRESTONE PARKWAY
AKRON, OH 44317

EXAMINER	
PAK, HANNAH J	
ART UNIT	PAPER NUMBER
1764	

NOTIFICATION DATE	DELIVERY MODE
02/14/2011	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):

iplawpat@bfusa.com

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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wk

Mailed: 2/14/2011

In re application of
Yan
Serial No. 11/920,669
Filed: November 19, 2007
For: **ENHANCING INTERACTIVITY BETWEEN AMINE-FUNCTIONALIZED POLYMERS AND PARTICULATE FILLERS**

DECISION ON PETITION

This is a response to Applicants Petition filed on January 26, 2011 to review the Advisory Action of January 10, 2011 that refused entry of the Applicant's Rule 312 amendment filed on December 20. 2010. Applicant requests entry of the 312 Amendment or as a secondary request, presented in the alternative, withdrawal of the application from issue before payment of the issue fee.

The Advisory Action indicated that the Rule 312 amendment had been refused entry because the amendment to claim1, which was not previously presented, affected the scope of the invention and also raised a new issue of indefiniteness. The claim recites "a particulate filler" at the end of the claim even though the particulate filler was mentioned in the beginning of the claim. The Examiner asserts that it is unclear whether "a particulate filler" as the end of the claim is the same "particulate filler" from the beginning.

Applicant asserts that that the amendment presented was of a scope similar to the version pending at the time of the withdrawn appeal. The version of the claim pending at the time of appeal included two instances of "one or more types," one in the preamble and the other in step (b). The Examiner's amendment changed "one or more types" in the preamble to "a" and in step (b) to "the". The version presented in the rule 312 amendment was of a scope similar to the version pending at the time of the withdrawn appeal. In both versions, the filled composition on which the process is performed can include more than one type of particulate filler, and the amine functional group (in step b) is required to interact with only one type of particulate filler. Applicant's 312 amendment was to form, not substance

DECISION

The Petition is **GRANTED**.

Serial Number: 11/920,669

The Examiner is directed to enter the amendment of December 20, 2010.

/Yvonne Eyler/
Director, Technology Center 1700

Yvonne L. Eyler, Director
Technology Center 1700
Chemical and Materials Engineering

David G. Burleson
BRIDGESTONE AMERICAS, INC.
1200 FIRESTONE PARKWAY
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/920,669	11/19/2007	Yuan-Yong Yan	P04054US2A	8703

48985 7590 08/16/2011

BRIDGESTONE AMERICAS, INC.
1200 FIRESTONE PARKWAY
AKRON, OH 44317

EXAMINER	
PAK, HANNAH J	

ART UNIT	PAPER NUMBER
1764	

NOTIFICATION DATE	DELIVERY MODE
08/16/2011	ELECTRONIC

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

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

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

iplawpat@bfusa.com

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110804

DATE : August 11, 2011

TO SPE OF : ART UNIT 1764

SUBJECT : Request for Certificate of Correction on Patent No.: 7,928,159

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: /Vasu Jagannathan/ **Art Unit** 1764

UNITED STATES PATENT AND TRADEMARK OFFICE

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THE NATH LAW GROUP
112 SOUTH WEST STREET
ALEXANDRIA VA 22314

MAILED

JUL 28 2011

OFFICE OF PETITIONS

In re Application:
Riisager et al.
Application No. 11/920,691
Filed: January 17, 2008
Attorney Docket No. 28885U

ON PETITION

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed June 30, 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 application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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RAHWAY NJ 07065-0907

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OCT 31 2011

PCT LEGAL ADMINISTRATION

In re Application of :
SHIPE, et al. :
U.S. Application No.: 11/920,717 :
PCT No.: PCT/US2006/046262 (as corrected) :
Int. Filing Date: 04 December 2006 : DECISION ON PETITION
Priority Date: 05 December 2005 : UNDER 37 CFR 1.182
Attorney Docket No.: 22057Y :
For: QUINOLONE M1 RECEPTOR :
POSITIVE ALLOSTERIC :
MODULATORS :

This decision is issued in response to applicant's "PETITION UNDER 37 CFR §1.182" filed 26 October 2011 in the United States Patent and Trademark Office (USPTO). The petition seeks to correct the international application number for the national stage application papers filed 16 November 2007, so as to allow such materials to be treated as the U.S. national stage of PCT/US2006/046262. Applicant has provided payment of the required $400 petition fee.

BACKGROUND

On 04 December 2006, applicant filed international application PCT/US2006/046262 which claimed priority to a previous application filed 05 December 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States was set to expire at midnight on 05 June 2008.

On 16 November 2007, applicant electronically filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and an unsigned declaration.

On 26 May 2010, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant of the need to file an executed oath or declaration of the inventors.

On 21 July 2010, applicant filed an executed declaration of the inventors.

On 07 September 2010, applicant was mailed a "Notice of Acceptance" (Form PCT/DO/EO/903).

On 26 October 2011, applicant filed the petition considered herein indicating that the international application number listed on the PTO-1390 transmittal letter filed 16 November 2007 was incorrect..

DISCUSSION

The materials filed 16 November 2007 included a Transmittal Letter to the United States Designated Office (DO/EO/US) Concerning a Submission that identified the application as a U.S. national stage of PCT/US2006/004262. However, applicant's filing included an unsigned declaration of the inventors which identified the application as a U.S. national stage entry of PCT/US2006/046262. Thus, applicant's 16 November 2007 filing included conflicting instructions that identified the submission as a U.S. national stage of two different international applications: PCT/US2006/004262 and PCT/US2006/046262.

Based on United States Patent and Trademark Office (USPTO) processing procedures, the application file was initiated in the USPTO PALM system as a U.S. national of PCT/US2006/004262, the international application number set forth on the transmittal letter provided by applicant when filing the application.

Applicant presently confirms that the correct international application is PCT/US2006/046262 and the petition further states that the correct international application number was listed on the declaration filed 16 November 2007. Applicant's present submission included the required petition fee to correct applicant's clerical error. Accordingly, these materials satisfy the requirements for a grantable petition to correct applicant's error in the bibliographical data filed 16 November 2007 and to permit such materials to be treated as having been directed to international application PCT/US2006/046262.

The PCT Article 20 papers transmitted to the US/DO/EO from the International Bureau based on the international application number entered in the PALM system will be replaced by those associated with international application PCT/US2006/046262 based on the granting of the present petition.

CONCLUSION

Applicant's petition under 37 CFR 1.182 is GRANTED.

The materials filed 16 November 2007 assigned U.S. application number 11/920,717 will be treated as the national stage of PCT/US2006/046262.

The Form PCT/DO/EO/903 mailed 07 September 2010 is hereby VACATED.

This application is being returned to the United States Designated/Elected Office for the mailing of a new Form PCT/DO/EO/903. The application will then be forwarded to the Office of Publication for republication as the U.S. national stage filing of international application PCT/US2006/046262.

Derek A. Putonen
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3294

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/920,720	11/20/2007	Masayuki Asai	134708	9213

25944 7590 06/15/2011

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

EXAMINER	
MILLER, MICHAEL G	

ART UNIT	PAPER NUMBER
1712	

NOTIFICATION DATE	DELIVERY MODE
06/15/2011	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):

OfficeAction25944@oliff.com
jarmstrong@oliff.com

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CST

June 14, 2011

In re application of	:	DECISION ON REQUEST TO
Masayuki Asai et al	:	PARTICIPATE IN PATENT
Serial No. 11/920,720	:	PROSECUTION HIGHWAY
Filed: November 20, 2007	:	PROGRAM AND
For: METHOD OF FORMING THIN FILM AND METHOD OF MANUFACTURING SEMICONDUCTOR DEVICE	:	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 filed April 18, 2011.

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, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;

(2) Applicant must submit a copy of:
a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO to obtain a copy from DAS; however, if the USPTO is unable to obtain a copy from the DAS, the applicant will be required to submit a copy;
b. An English translation of the allowable/ patentable claim(s), if applicable; and
c. A statement that the English translation is accurate, if applicable;

(3) Applicant must:
a. Ensure 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); and
b. Submit a claims correspondence table in English;

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit:
a. Documentation of prior office action:
i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claims(s) or
ii. if the allowable/patentable claim(s) are from "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form:
Further, if a copy of the documents from a or b is available via the Dossier Access System (DAS), applicant may request the USPO obtain a copy from the DAS; however, if the USPTO is unable to obtain a copy of the DAS, the applicant will be required to submit a copy;
b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above if applicable; and
c. A statement that the English translation is accurate; and

(6) Applicant must submit:
a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
b. Copies of documents except U.S. patents or U.S. patent application publications (unless already submitted in this application).

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.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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PAULEY PETERSEN & ERICKSON
2800 WEST HIGGINS ROAD
SUITE 365
HOFFMAN ESTATES IL 60169

MAILED

OCT 27 2011

OFFICE OF PETITIONS

In re Application of
Karl Wagner et al.
Application No. 11/920,780
Filed: April 2, 2009
Attorney Docket No. RP-103

ON PETITION

This is a decision regarding your request under 37 CFR 1.28. for acceptance of a fee deficiency submission and loss of small entity status filed October 12, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Your fee deficiency submission in the amount of $985, under 37 CFR 1.28, is hereby accepted and the petition is **GRANTED**. Status as a small entity has also been removed.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Jay R. Akhave
2058 N Mills Ave
612
Claremont CA 91711

MAILED
APR 29 2011
PCT LEGAL ADMINISTRATION

In re Application of GOGIA et al :
U.S. Application No.: 11/920,798 :
PCT Application No.: PCT/IB2006/001527 :
Int. Filing Date: 18 May 2006 :
Priority Date Claimed: 20 May 2005 : DECISION
Attorney Docket No.: 2007-32 :
For: PHARMACEUTICAL DOSAGE FORMS :
COMPRISING ESCITALOPRAM IN FORM :
OF GRANULES :

This is in response to applicant's petition under 37 CFR 1.181 filed 19 February 2011.

BACKGROUND

On 18 May 2006, applicant filed international application PCT/IB2006/001527, which claimed priority of an earlier India application filed 20 May 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 23 November 2006. The thirty-month period for paying the basic national fee in the United States expired on 20 November 2007.

On 20 November 2007, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 24 May 2010, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 25 January 2011, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 19 February 2011, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition states that an executed declaration was mailed to the Office on 28 May 2010. A review of the application file reveals that such declaration is not present.

37 CFR 1.8(b) states,

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed or decided with prejudice, or the prosecution of a reexamination proceeding is terminated pursuant to § 1.550(d) or § 1.957(b) or limited pursuant to § 1.957(c), or a requester paper is refused consideration pursuant to § 1.957(a), the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement that attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing, transmission or submission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. If the correspondence was transmitted via the Office electronic filing system, a copy of an acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.

With regard to item (1), applicant promptly notified the Office after becoming aware that the Office has no evidence of receipt of the declaration.

With regard to item (2), applicant has supplied a copy of the previously mailed correspondence and certificate of mailing.

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

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 25 January 2011 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 18 May 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 19 February 2011.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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DEC 03 2010

OFFICE OF PETITIONS

In re Patent No. 7,732,148	:	
Issued: 06/08/2010	:	
Application No. 11/920,822	:	NOTICE
Filed: 11/20/2007	:	
Attorney Docket No. W&W-07-1479	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 26, 2010.

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

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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JUL 27 2011

PCT LEGAL ADMINISTRATION

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EXXON MOBIL UPSTREAM RESEARCH COMPANY
P.O. Box 2189
CORP-URC-SW 359
Houston, Texas 77252-2189

In re Application of:
NORTHROP, P. Scott, et al.
U.S. Application No.: 11/920,824
PCT No.: PCT/US2006/019891
International Filing Date: 23 May 2006
Priority Date: 26 July 2005
Attorney's Docket No.: 2005UR024/2
For: METHOD OF PURIFYING HYDROCARBONS AND REGENERATION OF ADSORBENTS USED THEREIN

DECISION ON SECOND RENEWED SUBMISSION UNDER 37 CFR 1.42

This decision is issued in response to applicants' submission on 21 April 2010 of a revised declaration executed on behalf of deceased inventor Francis WU by the deceased inventor's "widow and sole beneficiary," treated herein as a renewed submission under 37 CFR 1.42.

BACKGROUND

The procedural background for this application was set forth in the decisions mailed on 22 December 2008 and 09 March 2010. The decisions rejected the declarations previously filed herein on behalf of the deceased inventor, finding that such declarations did not include all required information and were not submitted in acceptable form.

On 21 April 2010, applicants filed the revised declaration considered herein as a second renewed submission under 37 CFR 1.42 and 1.497.

DISCUSSION

The revised declaration filed 21 April 2010 is executed on behalf of deceased inventor Francis WU by the deceased inventor's widow and sole beneficiary. The declaration executed on behalf of the deceased inventor includes the required citizenship of the deceased inventor and the required residence, citizenship, and post office address of the person signing on behalf of the deceased inventor, Margaret WU. The declaration also expressly sets forth the relationship of the signing person to the deceased inventor, as required (i.e., "widow and sole beneficiary") and otherwise satisfies the requirements of 37 CFR 1.497(a) and (b).

Based on the above, the revised declaration filed 21 April 2010 on behalf of the deceased inventor is acceptable under 37 CFR 1.42 and 1.497 with respect to deceased inventor Francis WU.

CONCLUSION

Applicant's request for status under 37 CFR 1.42 with respect to deceased inventor Francis WU is **GRANTED**.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 21 April 2010.

/RichardMRoss/

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

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ALEXANDRIA VA 22320-4850

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MAY 23 2011

OFFICE OF PETITIONS

In re Patent No. 7,829,916 :
Application No. 11/920,835 :
Filed: November 21, 2007 : ON PETITION
Issued: November 9, 2010 :
Attorney Docket No. 134742 :

This is a decision on the request filed December 9, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the second assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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

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DRINKER BIDDLE & REATH LLP
1500 K Street, N.W., Suite 1100
Washington, D.C. 20005-1209

MAILED

OCT 08 2010

PCT LEGAL ADMINISTRATION

In re Application of	:	DECISION ON
MURATA et al	:	
Application No.: 11/920,841	:	
PCT No.: PCT/JP2005/021558	:	PETITION UNDER
Int. Filing Date: 24 November 2005	:	
Priority Date: 24 May 2005	:	
Attorney's Docket No.: 47234-5010	:	37 CFR 1.181
For: GENE OF TRANSPORTER SELECTIVE TO MUGINEIC ACID-IRON COMPLEX	:	

This Decision is in response to applicants' "PETITION UNDER 37 CFR 1.181 TO WITHDRAW HOLDING OF ABANDONMENT... OFFICE ACTION" filed 23 June 2010, to withdraw the abandonment because the Notice of MISSING REQUIREMENTS (PCT/DO/EO/922) was mailed to the wrong address.

BACKGROUND

On 24 November 2005, applicants filed international application PCT/JP2005/021558, which claimed priority of an earlier application filed 24 May 2008.

On 21 November 2007, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee, and a sequence listing. No oath or declaration of the inventors accompanied the transmittal letter.

On 30 May 2008, applicants filed an executed declaration.

On 12 November 2008, the United States Designated/Elected Office mailed a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures. The decision gave petitioner TWO (2) MONTHS from the mail date of the Notice within which to comply with the sequence rules, 37 CFR §§ 1.821-1.825. It also indicated failure to comply with these requirements will result in Abandonment of the application under 37 CFR § 1.821(g).

On 10 May 2010, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT," which stated that applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed on 11/12/2008 within the time period set therein.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 10 May 2010, applicants submitted on 23 June 2010 the instant petition requesting withdrawal of the Notice of Abandonment.

DISCUSSION

A review of the Image file Wrapper (IFW) of the above application reveals that the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (FORM PCT/DO/EO/922) and the Notice of Abandonment mailed on 12 November 2008 and 10 May 2010, respectively, to the wrong address. It appears that the USPTO mistakenly recorded the customer number as 55964 rather than the correct number **55694**. As a result, the correspondences were not mailed to petitioner but Shawna J. Shaw.

Accordingly, petitioner has met the requirements establish nonreceipt of the Office actions.

DECISION

The petition under 37 CFR 1.181 is **GRANTED**. The Notification of Abandonment (PCT/DO/EO/909) mailed 10 May 2010 was in error and is hereby **VACATED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
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Facsimile: (571) 273-0459

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/920,877	12/02/2008	Hwei-Sing Kwang	3800025.00002 / 2511US	1627

77202 7590 01/04/2011

K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego, CA 92130

EXAMINER	
SALIMI, ALI REZA	

ART UNIT	PAPER NUMBER
1648	

MAIL DATE	DELIVERY MODE
01/04/2011	PAPER

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

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JAN 0 4 2011

K&L Gates LP
3580 Carmel Mountain Road
Suite 200
San Diego, CA 92130

In re Application of: Hwei-Sing Kwang	:	
Serial No: 11/920,877	:	DECISION
Filed: December 2, 2008	:	ON
Attorney Docket No: 3800025.00002/2511US	:	PETITION
Title: Procine Circovirus Type 2 Vaccines	:	

This letter is in response to the Petition under 37 C.F.R. 1.181 requesting reconsideration of the finding of lack of unity filed on September 21, 2010.

BACKGROUND

This application was filed under 35 U.S.C. 371 and as such is subject to PCT unity of invention practice.

Applicant filed a claim set on December 2, 2008 which was subject to a restriction requirement on April 27, 2010.

In the restriction requirement of April 27, 2010, the examiner presented the following groups:

I. Claims 1-7, 9, 10, 22-24, 26, 44-47, 49 and 50, directed to attenuated PCV2 virus wherein attenuation in part is attributable to aberrant ORF3 expression where ORF3 is set forth in SEQ ID NO: 19

II. Claims 1-6, 810, 44-46, 48-50, directed to attenuated PCV2 virus wherein attenuation in part is attributable to aberrant ORF3 expression wherein ORF3 is set forth in SEQ ID NO: 21

III. Claims 1-4, 11-14, 44, 51-54, directed to attenuated PCV2 virus wherein attenuation in part is attributable to aberrant ORF3 expression where ORF3 is set forth in SEQ ID NO: 23 or 24

IV. Claims 1, 15-17 and 20, directed to a vaccine comprising attenuated PCV2, pharmaceutical composition, and a method of inducing immune response

The examiner stated the shared technical feature, an attenuated PCV2 virus, where the attenuation is attributable at least in part to aberrant ORF3 expression, is described in Allan et al, US 6,217,883.

On June 23, 2010, applicant elected Group I with traverse. Applicant urged that all groups share a special technical feature for patentability. Applicant argued that aberrant ORF3 expression is not disclosed in Allan et al and is novel.

On August 12, 2010, a non-final Office action was issued. The examiner stated that Allan et al indeed taught the PCV2 ORF3 being inactivated and disclosed the sequence of at least five isolates and deposited them including ORF3. The examiner further stated that the instant specification defines aberrant as ORF3 protein function as being absent vis-à-vis the wild-type ORF3 protein. Thus, Allan et al shows that the shared special technical feature is not a contribution over the prior art. The examiner maintained the restriction and made it Final.

On September 21, 2010, the present petition was filed requesting reconsideration of the restriction requirement.

DISCUSSION

The prosecution history and the petition have been carefully reviewed.

Claim 1 (in Groups I-IV) recites an immunogenic attenuated PCV2 virus, where the attenuation is attributable at least in part to aberrant ORF3 expression. Each of claims 1-17, 20, 22-24 and 44-54 include an immunogenic attenuated PCV2 virus where the attenuation is attributable at least in part to aberrant ORF3 expression, which is the special technical feature shared by all pending claims.

The examiner states that the term "aberrant" in the instant claims was given its broadest meaning in view of the specification to include inactivated ORF3, and that the inactivated PCV2 virus of Allan et al would function the same way as the claimed attenuated PCV2 virus product. The examiner concludes that "an inactivated PCV2 virus" is the shared special technical feature and is known so the claims lack unity of invention.

Allan et al has been carefully reviewed. Allan et al does not disclose an inactivated PCV2 in which ORF3 or its encoded product is inactivated. Allan et al discloses vaccination of pig using a porcine circovirus vaccine, combined with a porcine parvovirus vaccine. It is noted that the only mention of ORF3 in any of the claims of Allan et al is that an immunogenic composition can include an antigen encoded by a porcine circovirus type II ORF3 (see claim 12 of Allan et al). Allan et al does not disclose an attenuated PCV2 virus where the attenuation is attributable at least in part to aberrant ORF3 expression. Allan et al does not mention attenuation or modification of ORF3 expression or aberrant ORF3 expression. Thus, Allan et al does not teach the special technical feature shared by the instant claims. The examiner failed to establish a *prima facie* case based on lack of a special technical feature, the restriction requirement is improper.

DECISION

The petition is **GRANTED** for the reasons set forth above.

The application is being forwarded to examiner for re-evaluation of the unity of invention and further prosecution after mailing of this decision. All claims are under examination.

Should there be any questions about this decision, please contact Supervisory Patent examiner Cecilia Tsang, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0562 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/920,877	12/02/2008	Hwei-Sing Kwang	3800025:00002 / 2511US	1627

77202 7590 10/05/2011

K&L Gates LLP
3580 Carmel Mountain Road
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San Diego, CA 92130

EXAMINER	
SALIMI, ALI REZA	

ART UNIT	PAPER NUMBER
1648	

NOTIFICATION DATE	DELIVERY MODE
10/05/2011	ELECTRONIC

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

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

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

chicago.patents@klgates.com

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

OCT 0 5 2011

K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego CA 92130

In re Application of:	:	
Kwang et al.	:	
Serial No.: 11/920,877	:	PETITION DECISION
Filed: December 2, 2008	:	
Attorney Docket No.: **3800025.00002 / 2511US**	:	

This is in response to the Petition filed by applicants under 37 CFR § 1.181 on September 2, 2011, requesting the removal of the finality of the Office action of August 4, 2010.

BACKGROUND

A new final Office action has been mailed October 5, 2011 which is subsequent to the petition of September 2, 2011.

DECISION

The petition is **DISMISSED AS MOOT** in view of the new final Office action of October 5, 2011.

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

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

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Patent No. : 8,067,393 B2
Ser. No. : 11/920,878
Inventor(s) : Suda et al.
Issued : Nov. 29, 2011
Title : SUGAR-IMMOBILIZED METAL NANOPARTICLE, METHOD FOR MEASURING SUGAR-PROTEIN INTERACTION USING THE SAME AND METHOD FOR RECOVERING PROTEIN FROM SUGAR-PROTEIN INTERACTANT
Docket No. : 247322005900
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

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.
11/920,889	11/19/2007	Andreas Ziemann	2005P00919WOUS	1670

46726 7590 09/24/2010

BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

EXAMINER	
HALL, COREY JOHN	

ART UNIT	PAPER NUMBER
3743	

NOTIFICATION DATE	DELIVERY MODE
09/24/2010	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):

NBN-IntelProp@bshg.com

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BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN NC 28562

In re Application of:
ZIEMANN, ANDREAS
Serial No. 11/920,889
Filed: Nov. 19, 2007
Docket: 2005P00919WOUS
Title: HOUSEHOLD APPLIANCE FOR THE CARE OF ITEMS OF LAUNDRY,IN PARTICULAR A CLOTHES DRYER

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed September 14, 2010 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed June 24, 2010.

The petition is **granted.**

In finding petitioner's points of argument persuasive, the requested relief is granted. As such, the finality of the Office actions issued on June 24, 2010 is premature and the finality of the Office action is hereby withdrawn. The Office action mailed on June 24, 2010 will be designated as non-final Office action. Since the finality is being withdrawn, the amendment filed on September 14, 2010 in response to the Office action of June 24, 2010 has been treated as a 37 CFR § 1.111 amendment. The amendment of September 14, 2010 now has been entered for consideration. The examiner has been requested to issue a new Office action.

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

PETITION GRANTED.

Angela D. Sykes, Director
Technology Center 3700

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Alexandria, VA 22313-1450
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HUSCH BLACKWELL SANDERS LLP
HUSCH BLACKWELL SANDERS LLP WELSH & KATZ
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re	:	
Moshe, et al.	:	DECISION REGARDING
Application No. 11/920,900	:	PATENT TERM ADJUSTMENT
Filed: February 20, 2008	:	
Attorney Docket No. 7251/98455	:	

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT", filed February 7, 2011. Applicants believe that they should be accorded additional PTA, asserting that they should not have been assessed 62 days of Applicant delay for filing a Supplemental IDS on December 13, 2010.

The application for patent term adjustment under § 1.705(b) is **DISMISSED**. Applicants did not pay the required $200 PTA fee as set forth in 37 CFR 1.18(e). As such, the Office will not look into the matter on the merits.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHICAGO IL 60606

MAILED
MAY 16 2011
OFFICE OF PETITIONS

In re	: CORRECTED
Moshe, et al.	: DECISION REGARDING
Application No. 11/920,900	: PATENT TERM ADJUSTMENT
Filed: February 20, 2008	:
Patent No. 7,907,248	:
Issued: March 15, 2011	:
Attorney Docket No. 7251/98455	:

This is a corrected decision in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT", filed February 7, 2011. A previous decision was mailed on March 28, 2011. Applicants believe that they should be accorded additional PTA, asserting that they should not have been assessed 62 days of Applicant delay for filing a Supplemental IDS on December 13, 2010.

On January 18, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 465 days. On February 7, 2011, Applicants timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is 402 days. Applicant argues that his IDS filed on December 13, 2010 contained a 37 C.F.R. § 1.704(d) statement, and as such, he should not have been assessed delay of 62 days under 37 C.F.R. § 1.704(c)(8).

Applicants state that the application is not subject to a terminal disclaimer.

---

[1] Applicants filed the application for patent term adjustment together with the filing of the issue fee.

A review of the application file indicates that the December 13, 2010 IDS did not contain a proper 37 C.F.R. § 1.704(d) statement. The IDS contained a statement that "[T]he above-listed search report was received less than 30 days ago in connection with prosecution of a counterpart foreign application." § 1.704(d) states that an IDS will not be considered a failure to engage under (c)(8) 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".

Applicants did not mirror the language as required by § 1.704(d). Accordingly, applicant delay of sixty-two (62) days was properly assessed pursuant to 37 C.F.R. § 1.704(c)(8).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance was four hundred sixty-five (465) days.

The $200 fee under 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 23-0920, as authorized.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Anthony Knight
Director
Office of Petitions

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CHICAGO IL 60606

MAILED
SEP 08 2011
OFFICE OF PETITIONS

In re :
Moshe, et al. : DECISION REGARDING
Application No. 11/920,900 : PATENT TERM ADJUSTMENT
Filed: February 20, 2008 :
Patent No. 7,907,248 :
Issued: March 15, 2011 :
Attorney Docket No. 7251/98455 :

This is a decision in response to the "REQUEST FOR RECONSIDERATION OF DECISION REGARDING PATENT TERM ADJUSTMENT", filed June 7, 2011. Patentees believe that they should be accorded additional PTA, re-asserting that they should not have been assessed 62 days of Applicant delay for filing a Supplemental IDS on December 13, 2010.

On January 18, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 465 days. On February 7, 2011, Applicants timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is 402 days. Applicant argues that his IDS filed on December 13, 2010 contained a 37 C.F.R. § 1.704(d) statement, and as such, he should not have been assessed delay of 62 days under 37 C.F.R. § 1.704(c)(8).

However, the application for patent term adjustment was dismissed in a decision mailed on May 16, 2011. The decision noted that

[1] Applicants filed the application for patent term adjustment together with the filing of the issue fee.

the December 13, 2010 IDS did not contain a proper 37 C.F.R. § 1.704(d) statement, in that it did not mirror the precise language as required by § 1.704(d).

With the instant request for reconsideration, Patentees state that the December 13, 2010 IDS was only disclosing a November 22, 2010 EPO search report, not the prior art references cited in the search report. Patentees argue that they were only complying with their duty under 37 CFR 1.56(c), and that interpreting § 1.704(d) as not covering the circumstances of this case unreasonably penalizes applicants for complying with their duty under § 1.56(c).

Patentee's argument has been carefully considered, but is not persuasive. As the facts in this case do not fall under the purview of 37 CFR 1.704(d), Patentees can not avail themselves of § 1.704(d)'s benefits.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance was four hundred sixty-five (465) days.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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CHICAGO IL 60606

MAILED

OCT 14 2011

OFFICE OF PETITIONS

In re :
Moshe, et al. : DECISION REGARDING
Application No. 11/920,900 : PATENT TERM ADJUSTMENT
Filed: February 20, 2008 :
Patent No. 7,907,248 :
Issued: March 15, 2011 :
Attorney Docket No. 7251/98455 :

This is a decision in response to the "REQUEST FOR RECONSIDERATION OF DECISION REGARDING PATENT TERM ADJUSTMENT", filed September 26, 2011. Patentees believe that they should be accorded additional PTA, re-asserting that they should not have been assessed 62 days of Applicant delay for filing a Supplemental IDS on December 13, 2010.

On January 18, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 465 days. On February 7, 2011, Applicants timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is 402 days. Applicant argues that his IDS filed on December 13, 2010 contained a 37 C.F.R. § 1.704(d) statement, and as such, he should not have been assessed delay of 62 days under 37 C.F.R. § 1.704(c)(8).

[1] Applicants filed the application for patent term adjustment together with the filing of the issue fee.

However, the application for patent term adjustment was dismissed in a decision mailed on May 16, 2011. The decision noted that the December 13, 2010 IDS did not contain a proper 37 C.F.R. § 1.704(d) statement, in that it did not mirror the precise language as required by § 1.704(d).

With the instant request for reconsideration, Patentees state that the December 13, 2010 IDS was only disclosing a November 22, 2010 EPO search report, not the prior art references cited in the search report. Patentees argue that they were only complying with their duty under 37 CFR 1.56(c), and that interpreting § 1.704(d) as not covering the circumstances of this case unreasonably penalizes applicants for complying with their duty under § 1.56(c).

Patentee's argument has been carefully considered, but is not persuasive. As the facts in this case do not fall under the purview of 37 CFR 1.704(d), Patentees can not avail themselves of § 1.704(d)'s benefits.

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 Information Disclosure Statements 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.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance was four hundred sixty-five (465) days.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Craig Hallcher
CONTINENTAL TEVES, INC.
One Continental Drive
Auburn Hills, MI 48326

MAILED

APR 27 2011

PCT LEGAL ADMINISTRATION

In re Application of
RIETH *et al*
U.S. Application No.: 11/920,955
PCT No.: PCT/EP2006/062332
Int. Filing Date: 16 May 2006
Priority Date: 24 May 2005
Docket No.: AP 11261
For: EXTRACTION OF CAN-BUS-SIGNALS WITHOUT FEEDBACK

DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' petition to revive under 37 CFR 1.137(b) filed on 04 March 2011 is hereby **GRANTED** as follows:

A declaration in compliance with 37 CFR 1.497(a) and (b) and a $130.00 surcharge fee was provided. The petition fee has been paid. Applicants made the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required.

Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

This application is being forwarded to the United States Designated/Elected Office for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

24 AUG 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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27557
BLANK ROME LLP
600 New Hampshire Avenue, N.W.
Washington, DC 20037

In re Application of :
ARRINGTON *et al* :
U.S. Application No.: 11/921,055 :
PCT No.: PCT/US2006/020245 : **DECISION ON**
Int. Filing Date: 26 May 2006 : **RENEWED PETITION**
Priority Date: 26 May 2005 : **UNDER 37 CFR 1.137(b)**
Docket No.: 122790.0111 :
For: PRESERVATION SOLUTION FOR :
ORGANS AND BIOLOGICAL TISSUES :

Applicants' renewed petition to revive under 37 CFR 1.137(b) filed on 14 December 2009 is hereby **GRANTED** as follows:

In the renewed petition, applicants provided a declaration executed by Mr. POLYAK which is in compliance with 37 CFR 1.497(a) and (b). Item (1) of 37 CFR 1.137(b) is now complete. All other items of 37 CFR 1.137(b) were satisfied in the initial petition.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 26 May 2006 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 05 March 2010.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOHN S. PRATT, ESQ
KILPATRICK TOWNSEND & STOCKTON
LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Application of	:	
Sturrock et al.	:	
Application No. 11/921092	:	ON APPLICATION FOR
Filing or 371(c) Date: 11/27/2007	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
45669/351628	:	

This is in response to the PETITION REGARDING PATENT TERM (PTA) INDICATED IN NOTICE OF ALLOWANCE, filed April 29, 2011. Applicant asserts that the correct Patent Term Adjustment should be 923 days, not 647 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 application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The 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

CC: KILPATRICK TOWNSEND & STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101-2400

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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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ALEXANDRIA, VA 22313-1450
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Paper No.

JOHN S. PRATT, ESQ
KILPATRICK TOWNSEND &
STOCKTON LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

MAILED

APR 25 2011

OFFICE OF PETITIONS

In re Application of :
Sturrock et al. :
Application No. 11/921,110 : ON APPLICATION FOR
Filed: November 27, 2007 : PATENT TERM ADJUSTMENT
Atty Docket No. 45669/351627 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. §1.705(b)" filed April 1, 2011. Applicant submits that the correct patent term adjustment to be indicated on the patent is five hundred ninety-four (594) days, not four hundred nine (409) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under

§ 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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

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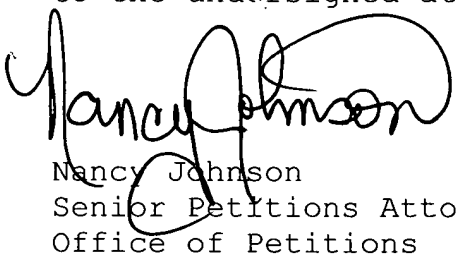
[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office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

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

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FIFTH FLOOR
WASHINGTON DC 20001

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Bohner et al.	:	
Application No. 11/921,160	:	DECISION ON PETITION
Filed: November 28, 2007	:	
Attorney Docket No. 8369.064.US0000	:	

This is a decision on the petition, filed August 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 **GRANTED**.

This application was held abandoned for failure to reply to the Office action mailed October 23, 2009, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on May 18, 2010.

Petitioner asserts that the Office action dated October 23, 2009 was not received.

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

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

(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 3612 for re-mailing the Office action of October 23, 2009. The period for reply will run from the mailing date of the Office action.

Liana Walsh
Petitions Examiner
Office of Petitions

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KUBOVCIK & KUBOVCIK
SUITE 1105
1215 SOUTH CLARK STREET
ARLINGTON VA 22202

In re Application of
ESAKI, KENZO
Application No.: 11/921,163
Filing or 371(c) Date: November 28, 2007
Attorney Docket Number: HRS-015

: APR 25 2011
: DECISION ON
: PETITION
:

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on March 3, 2011.

This petition is **GRANTED**.

The application was inadvertently abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance, mailed November15, 2010 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on February 28, 2011.

Petitioner states that the issue fee transmittal and payment were timely filed via the USPTO on February 14, 2011. Petitioner is in compliance with 37 CFR 1.8(b) in that (1) the United States Patent and Trademark Office was promptly informed of the previous timely mailing, (2) a copy of the previously mailed correspondence with certificate of mailing thereon has been submitted, and (3) included a statement which attests to the previous timely mailing.

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/921,183	11/28/2007	Rakesh Ratnam	28816U	3533

7590 08/10/2010

THE NATH LAW GROUP
112 South West Street
Alexandria, VA 22314

EXAMINER	
KRISHNAN, GANAPATHY	
ART UNIT	PAPER NUMBER
1623	
MAIL DATE	DELIVERY MODE
08/10/2010	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

Patent Publication Branch
Office of Data Management

Doc Code: PPH.PCT.552
Document Description: Petition to make special under PCT-Patent Pros Hwy

PTO/SB/23/PCT-EP (05-10)
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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 EUROPEAN PATENT OFFICE (EPO) AND THE USPTO

Application No:	11/921,186	Filing date:	March 11, 2009
First Named Inventor:	Jürgen Alfred Stiel		
Title of the invention:	PRINTING MACHINE AND A METHOD FOR PRODUCING A PRINTED PRODUCT		

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/ESC/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/EP2006/061872

The international date of the corresponding PCT application(s) is/are: April 27, 2006

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(e). 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.

REQUEST FOR PARTICIPATION IN THE PCT-PPH PILOT PROGRAM BETWEEN THE EPO AND THE USPTO

(continued)

Application No.:	11/921,186
First Named Inventor:	Jorgen Alfred Stiel

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 November 28, 2007

(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 November 28, 2007

II. Claims Correspondence Table:

Claims in US Application	Patentable Claims in the corresponding PCT Application	Explanation regarding the correspondence
105 - 114	1 - 10	direct correspondence
115	11	U.S. claim amended to remove multiple dependency
116, 117	12, 13	direct correspondence
118	14	U.S. claim amended to remove multiple dependency
119 - 123	15 - 19	direct correspondence
124, 125	20, 21	U.S. claim amended to remove multiple dependency
126, 127	22, 23	direct correspondence
128 - 131	24 - 27	U.S. claim amended to remove multiple dependency
132, 133	28, 29	direct correspondence
134, 135	30, 31	U.S. claim amended to remove multiple dependency
136 - 140	32 - 36	direct correspondence
141 - 143	37 - 39	U.S. claim amended to remove multiple dependency
144	40	direct correspondence
145	41	U.S. claim amended to remove multiple dependency
146 - 151	42 - 47	direct correspondence
--	48	improper format for U.S. claim
152 - 155	49 - 52	direct correspondence
156 - 158	53 - 55	U.S. claim amended to remove multiple dependency

III. All the claims in the US application sufficiently correspond to the patentable claims in the corresponding PCT application.

Signature		Date	October 8, 2010
Name (Print/Typed)	Douglas R. Hanscom	Registration Number	26600

KARIN T. DUNN

GERMAN TRANSLATION AND LANGUAGE SERVICES
Certified by the American Translators Association

4706 OLDE FORGE CT., FAIRFAX, VA 22032
TELEPHONE, FAX: 703-426-1422 · DUNN6FAM@MSN.COM

Date: September 30th, 2010

DECLARATION

The undersigned, Karin T. Dunn, hereby states that she is well acquainted with both the English and German languages and that the attached is a true translation to the best of her knowledge and ability of the German text of the amended claims, submitted with the International Preliminary Report on Patentability, for PCT/EP2006/061872, which was filed on 27 April 2006 and was published on 14 December 2006 as WO 2006/131422 A1.

The undersigned declares that the above statement is true and that this statement was made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or document or any patent resulting therefrom.

Karin T. Dunn

Translation of the pertinent portions of a Notification of the Transmittal of the International Preliminary Report Regarding Patentability in accordance with Rule 71.1 PCT, mailed 07/20/2007

2. This report comprises a total of 5 pages including this cover sheet.

3. Enclosures are also included with the report; these include

   A total of 10 pages *(sent to the applicant and to the International Authority)*, which include

   Pages containing the description, claims and/or drawings that have been amended and upon which this report is based, and/or pages containing corrections approved by the authority (see Rule 70.16 and section 607 of the Administrative Guidelines).

4. This report contains information on the following items:

Box I Basis of the Report

Box V Reasoned statement according to Article 35(2) with regard to novelty, inventive step and industrial applicability; citations and explanations to support such statement

Box I Basis of the Report

1. With regard to **language,** the opinion has been established on the basis of:

   the international application in the language in which it was filed.

2. With regard to the **components** of the international application the report is based upon

   Description, pages

1, 3-36	in the originally filed version
2, 2a	received on 09/16/2006 with the letter dated 09/13/2006

   Claims, No.

1-55	Received on 06/19/2006 with the letter dated 09/13/2006

   Drawings, pages

1/9-9/9	in the originally filed version

Box V. Reasoned statement according to Article 35(2) with regard to novelty, inventive step and industrial applicability; citations and explanations to support such statement

1. Statement

Novelty (N)	Yes: Claims 1-55 No: Claims
Inventive Step (IS)	Yes: Claims 1-55 No: Claims
Industrial Applicability (IA)	Yes: Claims 1-55 No: Claims

2. Citations and Explanations (Rule 70.7):
See supplementary pages

INTERNATIONAL PRELIMINARY REPORT REGARDING PATENTABILITY (SUPPLEMENTARY PAGES)

Re Item V.
Reasoned statement with regard to novelty, inventive step and industrial applicability; citations and explanations to support such statement

Reference is made to the following document:
D1: WO 2005/021276 A (MAN ROLAND DRUCKMASCHINE AG; SCHNEIDER, JOSEF; BAUMANN, REINHARD; DILL) 10 March 2005 (03/10/2005) cited in the application

The changes submitted with the letter dated 13 September 2006 introduce circumstances that, in contrast to Article 34(2)(b) PCT extend beyond the disclosure content of the international application at the time of application. This involves the omitted characteristic "and at least one device for inspection of the printed product."
This characterizing feature was taken into account in the examination of the present Claim 1.

1. **INDEPENDENT CLAIM 1**

1.1 Document D1 describes (references in parentheses refer to this document) a printing machine with at least one printing group (13, 14, 15, 16) for printing on a printing substrate (10) with printing ink, at least one application device (12) for applying at least one contactless identification feature that is configured as an RFID system (page 4, line 25), or a portion thereof, to the printing substrate (10).

1.2 Claim 1 differs from D1 in that the printing machine has a first inspection device for inspecting the identification feature or a portion thereof, in that the first inspection device, viewed in the direction of transport of the printing substrate, is arranged downstream from the application device and/or downstream from the at least one printing group or downstream from the last printing group in the printing machine, in that the printing machine has at least a second inspection device for inspecting the printed image of the printed product. Claim 1 is therefore novel (Article 33(2) PCT).

1.3 The problem to be solved here consists in shortening and improving the inspection of a printed product that has an identification feature.

1.4 One of ordinary skill in the art is given no suggestion in the prior art to use two inspection devices, with which on one hand the identification feature and on the other hand the printed image can be inspected.
Therefore, this is not a minor structural variant, because this solution means a technically different printing machine.
Furthermore, the present Claim 1 is inventive (Article 33(3) PCT).

2. **INDEPENDENT CLAIM 35**

2.1 Document D1 describes (references in parentheses refer to this document) a method for producing a printed product in a printing machine, wherein a contactless identification feature, configured as an RFID system (page 4, line 25), or a portion thereof is applied to a printing substrate (10), wherein the printing substrate (10) is printed with printing ink.

2.2 The present Claim 35 differs from D1 in that subsequently an optical inspection of at least a portion of the printed image located on the printing substrate is performed, in that before or after the printing a property or a characteristic of the identification feature is inspected, in that the identification feature is inspected following its application with respect to an electrical, magnetic or electromagnetic property using an inspection device.
Claim 35 is therefore novel (Article 33(2) PCT).
2.3 The problem to be solved here consists in shortening and improving the inspection of a printed product that has an identification feature.
2.4 For the same reason as with Claim 1, Claim 35 is also inventive (Article 33(3) PCT).

2. DEPENDENT CLAIMS 2-34, 36-55

3.1 Claims 2 through 34 are dependent upon Claim 1 and therefore also fulfill the requirements of the PCT with respect to novelty and inventive step.
3.2 Claims 36 through 55 are dependent upon Claim 35 and therefore also fulfill the requirements of the PCT with respect to novelty and inventive step.

Claims 1-55 relate to printing machines, and therefore fulfill the requirements of Article 33(4) PCT.

Claims

1. Printing machine with at least one printing group (01) for printing on a printing substrate (02) with printing ink, at least one application device (04; 12) for applying at least one contactless identification feature, configured as an RFID system, or a portion thereof onto the printing substrate (02), characterized in that the printing machine has at least a first inspection device (10; 11; 13) for inspecting the identification feature or a portion thereof, in that the first inspection device (10) is arranged, viewed in the direction of transport of the printing substrate (04), downstream from the application device (04; 12) and/or downstream from the at least one printing group (01), or behind the last printing group (01) in the printing machine, and in that the printing machine has at least a second inspection device (11) for inspecting the printed image of the printed product.

2. Printing machine according to Claim 1, characterized in that at least one application device (04) is a printing device (04) for imprinting an identification feature or a portion thereof.

3. Printing machine according to Claim 2, characterized in that the printing device (04) operates using a letterpress printing process.

4. Printing machine according to Claim 2, characterized in that the printing device (04) operates using an intaglio printing process.

5. Printing machine according to Claim 2, characterized in that the printing device (04) operates using a planographic printing process.

6. Printing machine according to Claim 2, characterized in that the printing device (04) is an offset printing group.

7. Printing machine according to Claim 1, characterized in that at least one application device (04; 12) is an adhesion device (12) for attaching an identification feature or a portion thereof via adhesion.

8. Printing machine according to Claim 1, characterized in that at least one application device (04; 12) is configured for applying an electronic component, especially a chip, to the printing substrate 02.

9. Printing machine according to claim 1, characterized in that the at least one printing group (01) and the at least one application device (04; 12) are connected inline.

10. Printing machine according to Claim 1, characterized in that the at least one first inspection device (10; 11; 13) and the at least one application device (04; 12) are connected in-line.

11. Printing machine according to one of Claims 1, 9 or 10, characterized in that the at least one second inspection device (11), the at least one printing group (01) and the at least one first inspection device (10) are connected in-line.

12. Printing machine according to Claim 2, characterized in that the at least one printing group (01), viewed in the direction of transport of the printing substrate (02), is arranged downstream of the at least one printing device (04; 12).

13. Printing machine according to Claim 2, characterized in that the first inspection device (10) is arranged on the at least one printing device (04; 12) or connected downstream of the at least one printing device (04).

14. Printing machine according to one of Claims 1 or 9 through 13, characterized in that the second inspection device (11) is arranged on the at least one printing group (01) or connected downstream of the at least one printing group (01).

15. Printing machine according to Claim 1, characterized in that the at least one printing group (01) is an offset printing group.

16. Printing machine according to Claim 15, characterized in that at least four offset printing groups are provided for multicolor printing.

17. Printing machine according to Claim 1, characterized in that the printing substrate (02) is configured as a sheet (02) or a web.

18. Printing machine according to Claim 1, characterized in that the at least one printing group (01) is configured such that in an axial direction of the printing group (01) a plurality of copies are provided side by side.

19. Printing machine according to Claim 1, characterized in that the at least one printing group (01) is configured such that in a longitudinal direction, a plurality of copies are provided in series.

20. Printing machine according to Claim 18 or 19, characterized in that the copies of folded cartons are formed.

21. Printing machine according to Claim 18 or 19, characterized in that the copies of labels are formed.

22. Printing machine according to Claim 1, characterized in that the first inspection device (10; 11; 13) is configured to inspect at least one electrical or magnetic or electromagnetic property of the identification feature.

23. Printing machine according to Claim 1, characterized in that the first inspection device (10) is configured to inspect at least one optical property of the identification feature.

24. Printing machine according to one of Claims 1 or 9 through 23, characterized in that the second inspection device (11) is configured for the optical inspection of the finished printed product.

25. Printing machine according to one of Claims 2 through 17, characterized in that the printing device (04) is configured to imprint at least one antenna of an RFID system.

26. Printing machine according to one of Claims 7 through 25, characterized in that the adhesion device (12) is configured to attach at least one chip of an RFID system via adhesion.

27. Printing machine according to Claim 23 or 24, characterized in that a CCD device (48, 49) or CMOS device is provided for optical inspection.

28. Printing machine according to Claim 27, characterized in that the CCD device (48, 49) is a CCD line camera.

29. Printing machine according to Claim 28, characterized in that the maximum width of the printing substrate (02) can be scanned using the CCD line camera (48).

30. Printing machine according to one of Claims 1 or 9 through 29, characterized in that the second inspection device (11) is configured to inspect the register and/or the color properties of the printed image.

31. Printing machine according to one of Claims 1 or 9 through 30, characterized in that the second inspection device (11), viewed in the direction of transport of the printed substrate (02), is arranged downstream of the at least one printing group (01) or after the last printing group (01) in the printing machine.

32. Printing machine according to Claim 1, characterized in that the first inspection device (10), viewed in the direction of transport of the printing substrate (02), is arranged behind the application device (04; 12) and in front of the first printing group (01).

33. Printing machine according to Claim 17, characterized in that the printed sheets (02) can be fed to a sorting device.

34. Printing machine according to Claim 33, characterized in that on the transport path of the sheets (02), two holding stacks (08, 09) are provided, arranged in series, to which the printed sheets (02) can optionally be delivered, based upon their quality.

35. Method for producing a printed product in a printing machine, wherein a contactless identification feature, configured as an RFID system, or a portion thereof is applied to a printing substrate (02), wherein the printing substrate (02) is printed with printing ink, characterized in that subsequently an optical inspection of at least a portion of the printed image located on the printing substrate (02) is performed, in that, before or after

printing, a property or a characteristic of the identification feature is inspected, in that the identification feature is inspected, following its application, with respect to an electrical, magnetic, or electromagnetic property, by means of an inspection device (10; 11; 13).

36. Method according to Claim 35, characterized in that the contactless identification feature or a portion thereof is applied by means of a printing technique.

37. Method according to Claim 35 or 36, characterized in that the identification feature is inspected, following its application, with respect to an electrical, magnetic or electromagnetic property, by means of an inspection device (10; 11; 13) that operates in a contactless fashion.

38. Method according to Claim 35 or 36, characterized in that the identification feature is inspected, following its application, with respect to an electrical, magnetic or electromagnetic property by means of an inspection device (10; 11; 13) that operates in an inductive fashion.

39. Method according to one of Claims 35 through 38, characterized in that the identification feature is inspected, following its application, with respect to an optical property.

40. Method according to Claim 35, characterized in that, following application of the printed image, the optical properties of the entire printed product are inspected.

41. Method according to one of Claims 35 through 40, characterized in that first the

identification feature is inspected, following its application, with respect to an optical property, and that then, following application of the printed image, the optical properties of the entire printed product are inspected.

42. Method according to Claim 41, characterized in that the optical inspection of at least a portion of the image imprinted onto the printing substrate (02) is performed by a further inspection device (12).

43. Method according to Claim 35, characterized in that the electric, magnetic or electromagnetic inspection of the identification feature is performed at a first location in relation to the direction of transport, and the optical inspection of at least a portion of the printed image is performed at a second location.

44. Method according to Claim 35, characterized in that the identification feature is overprinted in multiple colors.

45. Method according to Claim 35, characterized in that properties of the RFID system are inspected inline, such as especially the frequency of the antenna oscillator circuit and/or the identification number and/or the key to a digital signature.

46. Method according to Claim 35, characterized in that the identification feature and the printed image are applied to the same side of the printing substrate (02).

47. Method according to Claim 35, characterized in that first the identification feature and then the printed image are applied to the printing substrate (02) in a printing machine.

48. Method according to one of Claims 35 through 46, characterized in that the method is performed in a printing machine according to one of Claims 1 through 34.

49. Printing machine according to Claim 1, characterized in that the optical property of the identification feature is the shape of electrical printed conductors, which form an antenna of an RFID system.

50. Printing machine according to Claim 2, characterized in that the printing device (04) is configured to print electrically conductive material.

51. Printing machine according to Claim 2, characterized in that the printing device (04) is configured to print electrically insulating material.

52. Printing machine according to Claim 2, characterized in that the printing device (04) is configured to print electrically semiconductive material.

53. Printing machine according to Claim 50, 51 or 52, characterized in that the material contains a polymer.

54. Printing machine according to Claim 51 or 52, characterized in that at least two printing devices (04) are arranged.

55. Printing machine according to Claim 50, 51 or 52, characterized in that at least three printing devices (04) are arranged.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/921,186	03/11/2009	Jürgen Alfred Stiel	W1.2537 PCT-US	3583

23294 7590 11/08/2010

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ARLINGTON, VA 22202

EXAMINER	
NGUYEN, JUDY	
ART UNIT	**PAPER NUMBER**
2854	
MAIL DATE	**DELIVERY MODE**
11/08/2010	PAPER

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

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

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United States Patent and Trademark Office
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JONES, TULLAR & COOPER, P.C.
P.O. BOX 2266 EADS STATION
ARLINGTON VA 22202

In re Application of
JüRGEN Alfred STIEL
Application No.: 11/921,186
Filed: 11 March 2009
Attorney Docket No.: W1.2537 PCT-US
For: PRINTING MACHINE AND A METHOD FOR PRODUCING A PRINTED PRODUCT

: DECISION ON REQUEST TO
: PARTICIPATE IN THE PCT PATENT
: PROSECUTION HIGHWAY PILOT
: PROGRAM AND PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(d)

This is a decision on the request to participate in the PCT Patent Prosecution Highway (PCT-PPH) pilot program and the petition under 37 CFR 1.102(a), filed 05 October 2010, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

A grantable request to participate in the PCT-PPH pilot program and petition to make special require:

(1) The U.S. application must disclose an eligible relationship to one or more PCT applications where the ISA or IPEA are the JPO, EPO, KIPO, or USPTO;

(2) At least one claim in the PCT application has novelty, inventive step, and industrial applicability and must be free of any observations in Box VIII in the latest work product in the international stage or applicant must identify and explain why the claim(s) is/are not subject to the observation in Box VIII;

(3) Applicant must submit a copy of the claim(s) from the PCT application(s) that have novelty, inventive step, and industrial applicability along with an English translation thereof and a statement that the English translation is accurate, if the claims are not in the English language;

(4) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the claim(s) that have novelty, inventive step, and industrial applicability in the PCT application(s);

(5) Examination of the U.S. application has not begun;

(6) Applicant must submit a copy of the latest international work product from the PCT application indicating that the claim(s) have novelty, inventive step, and industrial applicability along with an English translation thereof and a statement that the English translation is accurate

if the latest international work product is not in the English language;

(7) Applicant must submit an IDS listing the documents cited by the PCT examiner in the international work product along with copies of documents except U.S. patents or U.S. patent application publications.

The request to participate in the PCT-PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Lee W. Young at 571-272-4549.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

This application will be forwarded to the examiner for action on the merits commensurate with this decision once this application's formality reviews have been completed.

Lee W. Young
TQAS Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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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POLLACK, P.C.
THE CHRYSLER BUILDING
132 EAST 43RD STREET, SUITE 760
NEW YORK NY 10017

MAILED
FEB 14 2012
OFFICE OF PETITIONS

In re Application of :
Guglielmelli et al. :
Application No.: 11/921213 : DECISION ON
Filing or 371(c) Date: 11/27/2007 : PETITION
Attorney Docket Number: 1014.1092 :

This is a decision in response to the "Petition to Withdraw Holding of Abandonment Under 37 CFR § 1.181, filed January 17, 2012, based upon non-receipt of an Office action.

This Petition is hereby **dismissed**.

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

The above-identified application became abandoned for failure to timely and properly reply to the Notice Requiring Excess Claims Fees, mailed September 20, 2010. The Notice set a one (1) or 30 day period for reply, whichever was longer. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on October 21, 2010.

Applicant files the present petition and avers that the Notice was never received, and that a search of the file jacket and docket records indicates that the Office action was not received. In support of the petition, Applicant files a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. Applicant also files a reply to the Notice.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in

support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

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

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). (Emphasis supplied).

Analysis/conclusion

Regrettably, the petition is not grantable at this time. The Office requirements for granting a petition to withdraw the holding of abandonment based upon non-receipt of an Office communication have been modified. The Office requires 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. In addition, 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 petition is dismissed without prejudice. Applicant should file a Request for Reconsideration of Petition and include the necessary statements and/or copies of docket records and/or file jacket docketed for a date that is one (1) month or 30 days from the mail date of the non-received Notice.

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. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center[1].

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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

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EDWARDS ANGELL PALMER & DODGE LLP
PO BOX 55874
BOSTON MA 02205

MAILED

AUG 15 2011

OFFICE OF PETITIONS

In re
Pavone, et al.
Application No. 11/921,266
Filed: July 30, 2008
Attorney Docket No. 69765US (309664)

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed August 1, 2011.

The fee deficiency submission under 37 CFR 1.28 of $755 is hereby accepted.

The change of status to large entity has been entered.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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THE MAXHAM FIRM
9330 SCRANTON ROAD, SUITE 350
SAN DIEGO CA 92121

MAILED

NOV 09 2010

PCT LEGAL ADMINISTRATION

In re Application of :
ABRAMOV, Adam Mendeleevich, et al. :
U.S. Application No.: 11/921,280 : DECISION ON
PCT No.: PCT/RU2006/000243 :
Int. Filing Date: 17 May 2006 : PETITION
Priority Date: 17 June 2005 :
Attorney Docket No.: 2987-1 : UNDER 37 CFR 1.137(a)
For: METHOD OF ANTIFUNGAL ... :
AND ULTRAVIOLET TREATMENT :

This is a decision on the petition under 37 CFR 1.137(a), filed in the United States Patent and Trademark Office on 09 September 2010.

BACKGROUND

On 29 November 2007, applicants filed a national stage entry of PCT/RU2006/000243, which included a credit card authorization for payment of the basic national fee.

On 03 December 2007, the Office attempted to process the credit card twice, but it was declined both times.

On 24 July 2008, the Office mailed Decision On Petition Under 37 CFR 1.10(e), indicating that applicants' 29 November 2007 paperwork had been located, but that the credit card authorization was twice declined. The Office attempted to process the credit card again, but it was again declined.

On 06 August 2008, applicant supplied fees totaling $515.

On 15 September 2009, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to pay the basic national fee by 30 months from the priority date.

On 08 March 2010, applicants filed this petition under 37 CFR 1.181 to withdraw the holding of abandonment.

On 14 May 2010, the Office mailed Decision On Petition Under 37 CFR 1.181, dismissing applicant's petition without prejudice.

On 09 September 2010, applicants filed this petition under 37 CFR 1.137(a).

DISCUSSION

A petition to revive an application for patent unavoidably abandoned under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, (2) the petition fee, (3) a satisfactory showing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition to 1.137(a) was unavoidable and (4) a terminal disclaimer if application was filed before June 8, 1995.

Items (1), (2) and (4) have been met. The balance of the petition fee will be charged to deposit account no. 02-0460, as authorized. The basic national fee was paid on 06 August 2008. A terminal disclaimer is not required as the application was filed on or after 08 June 1995.

Item (3) has not been satisfied. Applicants have not established that the failure to pay the basic national fee by 30 months was an unavoidable error that could not have been averted by the care that one takes with one's most important business. Applicants supplied a credit card authorization to a credit card that was declined twice. Applicants have not established that the credit card supplied for payment had a sufficient credit limit and otherwise should have been authorized for payment when processed. The Office offers applicants the ability to supply a backup authorization to a deposit account should a primary method of payment fail. Applicants did not avail themselves of that offering.

Applicants allege that their nonpayment of the fees arose as the Office failed to notify them that their credit card had been declined. The obligation to pay the basic national fee by 30 months is set forth in both 35 USC 371 and 37 CFR 1.495. It is not dependent on notice from the Office. Under 37 CFR 1.495(c)(1), if applicant pays the basic national fee and supplies the copy of the international application by thirty months, then the Office will invite applicant to furnish a translation, an oath or declaration, a search fee, an examination fee or an application size fee. Applicant did not pay the basic national fee and was not owed a notice.

Applicant has not advanced any arguments for treatment of this petition under 37 CFR 1.182. If treatment under 37 CFR 1.182 is desired, applicant should pay the fee for that petition and advance arguments under that section.

CONCLUSION

For the above reasons, applicant's petition 37 CFR 1.137(a) is **DISMISSED** without prejudice.

This application remains **ABANDONED**.

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

Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 04 2011

PCT LEGAL ADMINISTRATION

Commissioner for Patents
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THE MAXHAM FIRM
9330 SCRANTON ROAD, SUITE 350
SAN DIEGO CA 92121

In re Application of :
ABRAMOV, Adam Mendeleevich, et al. :
U.S. Application No.: 11/921,280 :
PCT No.: PCT/RU2006/000243 :
Int. Filing Date: 17 May 2006 :
Priority Date: 17 June 2005 :
Attorney Docket No.: 2987-1 :
For: METHOD OF ANTIFUNGAL ... :
AND ULTRAVIOLET TREATMENT :

DECISION ON

PETITION

UNDER 37 CFR 1.182

This is a decision on the petition under 37 CFR 1.182, filed in the United States Patent and Trademark Office on 07 December 2010.

BACKGROUND

On 09 November 2010, the Office mailed Decision On Petition Under 37 CFR 1.137(a), dismissing applicants' petition without prejudice.

On 07 December 2010, applicants filed this petition under 37 CFR 1.182.

DISCUSSION

Section 1.182 of Chapter 37 of the Code of Federal Regulation is Questions not specifically provided for. The requirements are (1) the petition fee set forth in § 1.17(f) and (2) a statement of the circumstances, so the petition can be decided in accordance with the merits of each situation by or under the authority of the Director, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing.

As to item (1), the petition fee has been paid.

Item (2) has not been satisfied. MPEP 711.03(c) states, in part,

> A petition to revive an abandoned application (discussed below) should not be confused with a petition from an examiner's holding of abandonment. Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under

> 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.
>
> Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based on unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

The application is abandoned. Applicants acknowledge that the basic national fee was not paid by 30 months. Applicants supplied a credit card authorization to a credit card that was declined twice. Applicants have not established that the credit card supplied for payment had a sufficient credit limit and otherwise should have been authorized for payment when processed. These arguments would fall under either 37 CFR 1.137(a) or 37 CFR 1.182. They have not been advanced.

The delay in informing applicant of the abandonment of this case did not cause the abandonment. Applicants submission of an invalid credit card for payment of the basic national fee caused the abandonment. Applicants did not provide a backup authorization to charge a deposit account.

Applicants may wish to file a petition under 37 CFR 1.137(b) for revival of an international application abandoned unintentionally.

CONCLUSION

For the above reasons, applicant's petition 37 CFR 1.182 is **DISMISSED** without prejudice.

This application remains **ABANDONED**.

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 07 2011

PCT LEGAL ADMINISTRATION

THE MAXHAM FIRM
9330 SCRANTON ROAD, SUITE 350
SAN DIEGO CA 92121

In re Application of :
ABRAMOV, Adam Mendeleevich, et al. :
U.S. Application No.: 11/921,280 :
PCT No.: PCT/RU2006/000243 :
Int. Filing Date: 17 May 2006 :
Priority Date: 17 June 2005 :
Attorney Docket No.: 2987-1 :
For: METHOD OF ANTIFUNGAL ... :
AND ULTRAVIOLET TREATMENT :

DECISION ON

PETITION

UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed in the United States Patent and Trademark Office on 04 April 2011.

BACKGROUND

On 04 February 2011, the Office mailed Decision On Petition Under 37 CFR 1.182, dismissing applicants' petition without prejudice.

On 04 April 2011, applicants filed this petition under 37 CFR 1.137(b).

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) 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, (2) the required reply, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Items (1), (2) and (4) have been satisfied. The required statement has been made. The proper reply, the basic national fee, has been paid. A terminal disclaimer is not required as the application was filed on or after 08 June 1995.

Item (3) have not been satisfied. The $810 petition fee under 37 CFR 1.17(m) for a small entity has not been paid. Applicant's deposit account lacked sufficient funds to cover the balance.

CONCLUSION

For the above reasons, applicant's petition 37 CFR 1.137(b) is **DISMISSED** without prejudice.

This application remains **ABANDONED**.

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

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AUG 08 2011

PCT LEGAL ADMINISTRATION

THE MAXHAM FIRM
9330 SCRANTON ROAD, SUITE 350
SAN DIEGO CA 92121

In re Application of :
ABRAMOV, Adam Mendeleevich, et al. :
U.S. Application No.: 11/921,280 :
PCT No.: PCT/RU2006/000243 :
Int. Filing Date: 17 May 2006 :
Priority Date: 17 June 2005 :
Attorney Docket No.: 2987-1 :
For: METHOD OF ANTIFUNGAL ... :
AND ULTRAVIOLET TREATMENT :

DECISION ON

PETITION

UNDER 37 CFR 1.137(b)

Applicant's petition under 37 CFR 1.137(b), filed in the United States Patent and Trademark Office on 09 June 2011, is **GRANTED**.

Applicant states that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate reply and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

This application is being referred to the National Stage Processing Branch of the Office of Patent Application Processing for continued processing in accordance with this decision.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

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9330 SCRANTON ROAD, SUITE 350
SAN DIEGO CA 92121

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NOV 08 2011

PCT LEGAL ADMINISTRATION

In re Application of :
ABRAMOV, Adam Mendeleevich, et al. :
U.S. Application No.: 11/921,280 :
PCT No.: PCT/RU2006/000243 :
Int. Filing Date: 17 May 2006 :
Priority Date: 17 June 2005 :
Attorney Docket No.: 2987-1 :
For: METHOD OF ANTIFUNGAL ... :
AND ULTRAVIOLET TREATMENT :

DECISION ON

PETITION

UNDER 37 CFR 1.181

This is a decision on applicants submission of a declaration, filed in the United States Patent and Trademark Office on 04 November 2011. It is being treated as a petition under 37 CFR 1.181 for a corrected Notice of Acceptance and Filing Receipt.

BACKGROUND

On 08 August 2011, the Office mailed Decision On Petition Under 37 CFR 1.137(b), granting applicants' petition to revive and referring the application to National Stage Processing for further action consistent with the decision.

On 17 August 2011, the Office mailed Notification of Insufficient Fees (Form PCT/DO/EO/923) and a filing receipt.

On 24 August 2011, the Office mailed a filing reciept and Notice of Acceptance (Form PCT/DO/EO/903) indicating that the requirements under 35 USC 371(c)(1), (c)(2) and (c)(4) and for all of 35 USC 371 were satisfied on 09 June 2011. This filing receipt indicated the applicant was a small entity.

On 04 November 2011, applicants filed a declaration of the inventors.

DISCUSSION

Under 37 CFR 1.41(a)(4), the inventorship of the international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any changes effected under PCT Rule 92*bis*. An oath or declaration reflecting that international stage inventorship is required.

The 29 November 2007 declaration listed only one inventor, while the international application listed two. The 29 November 2007 declaration did not comply with 37 CFR 1.497(a)-(b).

The 04 November 2011 declaration lists both inventors from the international application and complies with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicant's petition 37 CFR 1.181 for a corrected Notice of Acceptance and filing receipt is **GRANTED**.

The Notice of Acceptance (Form PCT/DO/EO/903) mailed 24 August 2011 is **VACATED**.

This application is being referred to the National Phase Processing Branch of the Office of Patent Application Processing for further action consistent with this decision, including mailing of a corrected Form PCT/DO/EO/903 and filing receipt.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

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THE MAXHAM FIRM
9330 SCRANTON ROAD, SUITE 350
SAN DIEGO CA 92121

MAILED
NOV 30 2011
OFFICE OF PETITIONS

In re Application of :
Adam Mendeleevich Abramov :
Application No. 11/921,280 : DECISION ON PETITION
Filed: June 9, 2011 : TO MAKE SPECIAL UNDER
Attorney Docket No. 2987-1 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 10, 2011, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by an attorney on behalf of inventor Adam Mendeleevich Abramov, attesting to his/her age. The above-identified application has been accorded "special" status.

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

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

Upon completion of the pre-examination processing by the Office of Patent Application Processing, this application will be referred to Technology Center 3743 for action on the merits commensurate with this decision.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

01 OCT 2010

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

Allan Chan and Associates
225 Broadway, Suite 700
New York, NY 10007

In re Application of :
HUIYUAN *et al* :
Application No.: 11/921,281 :
PCT No.: PCT/CN2006/001062 : DECISION
Int. Filing Date: 22 May 2006 :
Priority Date: 30 May 2005 :
For: AN URBAN AND RURAL :
INTEGRATED CONDUIT ... :

This is a decision on applicants' "PETITION UNDER 37 CFR 1.182" filed in the U.S. Patent and Trademark Office (USPTO) on 06 July 2010. The petition is **GRANTED** as discussed below.

On 06 May 2010, this office mailed a decision vacating the previously issued NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903), and indicating that there were conflicting indications as to which international application the present national stage application was directed. The decision indicated that a petition under 37 CFR 1.182 clearly indicating the correct international application number was required in order for processing of the application to continue.

On 06 July 2010, applicants filed the present petition which was accompanied by the requisite petition fee. The petition states that the present application is the national stage filing of international application No. PCT/CN2006/001062.

This application is being returned to the National Stage Processing Branch of the International Division for further processing in accordance with this decision, that is as the national stage filing of international application No. **PCT/CN2006/001062** which has international filing date of 22 May 2006, and which claims a priority date of 30 May 2005.

Richard R. Cole
Senior PCT Legal Examiner
Office of PCT Legal Administration

(571) 272-3281

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OFFICE OF PETITIONS

TechLaw LLP
10755 Scripps Poway Parkway, Suite 465
San Diego CA 92131

In re Application of :
BOTTONI et al. :
Application No. 11/921,286 : DECISION ON PETITION
Filed: 11/29/2007 :
Attorney Docket No. AWASS.006US :

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2011, to revive the above-identified application.

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 necessary.

The application became abandoned for failure to file a timely and proper reply within the meaning of 37 CFR 1.113 to the final Office action of April 19, 2011, which set a three (3) month shortened statutory period for reply. Petitioners did not submit a timely request for an extension of time for response pursuant to 37 CFR 1.136(a). Accordingly, the application became abandoned on July 20, 2011. The Office mailed a Notice of Abandonment was mailed on December 20, 2011.

The provisions of 37 CFR 1.137(b) 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 pursuant to 37 CFR 1.137(b) must be accompanied by:

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

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

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

The 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 paragraph (d) of this section.

The present petition does not satisfy requirement (1) above.

Petitioners identified the type of reply to the outstanding Office action as "in the form of Petition & fee for 3-Month Extension of Time." Furthermore, petitioners did not list the reply as an enclosure with the petition. Therefore, it is does not appear that petitioner filed the required reply to the outstanding final Office action with the petition.

In a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:

(1) A Notice of Appeal and appeal fee;

(2) An amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance;

(3) The filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995; or

(4) The filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).

Any renewed petition must be accompanied by the required reply to the Office action as a prerequisite for revival of the application. If petitioners filed a continuing application as their reply, petitioners must identify the continuing application (and the serial number and filing date, if available) as the reply in box 2A of Form PTO/SB/64.

Petitioners submitted a request for an extension of time for response within the third month and a $1,270.00 fee with the present petition on December 20, 2011. The Office reminds petitioners that a petition for an extension of time under 37 CFR 1.136(a) must be filed within the extended period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). As petitioners submitted the request for an extension of time for response within the third month and fee after the maximum statutory period for reply, the $1,270.00 cannot be accepted. The Office will refund this amount to applicants' credit card in due course.

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 via the Electronic Filing System of the USPTO.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

10 AUG 2010

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www.uspto.gov

Wolf Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston MA 02210-2206

In re Application of :
ALVAREZ, Eduardo :
Application No.: 11/921,322 :
PCT No.: PCT/US2006/021027 : DECISION ON PETITION
Int. Filing Date: 31 May 2006 : UNDER 37 CFR 1.137(b)
Priority Date: 31 May 2005 :
Attorney Docket No.: V0209.70000US01 :
For: SYSTEMS, METHODS AND DEVICES FOR DISPENSING PRODUCTS FROM A KIOSK :

The petition to revive under 37 CFR 1.137(b) filed 23 June 2010 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the required reply (declaration of inventorship) and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony R

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298

Doc Code: PPH.PCT.652
Document Description: Petition to make special under PCT-Patent Pros Hwy

PTO/SB/20PCT-US (09-10)
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 IN A U.S. APPLICATION WHERE THE USPTO WAS THE ISA OR IPEA

Application No:	11/921,322	Filing date:	June 23, 2010
First Named Inventor:	Eduardo Alvarez		
Title of the Invention:	SYSTEMS, METHODS AND DEVICES FOR DISPENSING PRODUCTS FROM A KIOSK		

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.

PCT/US06/21027

The corresponding PCT application number(s) is/are:

The international date of the corresponding PCT application(s) is/are:

May 31, 2006

I. List of Required Documents:

a. **A copy of the latest international work product (WO/ISA, WO/IPEA, or IPER) in the above–identified corresponding PCT application(s)**

☒ Is attached

☐ Is not attached because the document is already in the U.S. application.

b. **A copy of all claims which were indicated as having novelty, inventive step and industrial applicability in the above-identified corresponding PCT application(s).**

☐ Is attached.

☒ Is not attached because the document is already in the U.S. application.

c. **English translations of the documents in a. and b. above are attached (if the documents are not in the English language). A statement that the English translation is accurate is attached for the document in b. above.**

This collection of information is required by 35 U.S.C. 119, 37 CFR 1.55, and 37 CFR 1.102(d). The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.

PTO/SB/20PCT-US (09-10)
Approved for use through 01/31/2012. OMB 0651-0058
U.S.Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR PARTICIPATION IN THE PCT-PPH PILOT PROGRAM IN A U.S. APPLICATION WHERE THE USPTO WAS THE ISA OR IPEA (continued)

Application No.:	11/921,322
First Named Inventor:	Eduardo Alvarez

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 _____

(2) Copies of all documents (except) for U.S. patents or U.S. patent application publications)

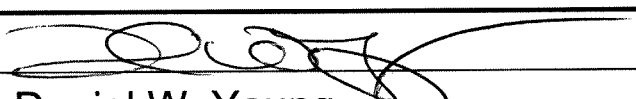
☒ Are attached.

☐ Have already been filed in the above-identified U.S. application on _____

II. Claims Correspondence Table:

Claims in US Application	Patentable Claims in the corresponding PCT Application	Explanation regarding the correspondence
1	10	Claim 1 is identical in scope with claim 10 of the PCT application
3	10	Claim 3 depends from claim 1, and thus is within the scope of claim 10 from the PCT application
45	10	Claim 45 depends from claim 3, and thus is within the scope of claim 10 from the PCT application
46	10	Claim 46 depends from claim 45, and thus is within the scope of claim 10 from the PCT application
47	10	Claim 47 depends from claim 1, and thus is within the scope of claim 10 from the PCT application
48	10	Claim 48 depends from claim 1, and thus is within the scope of claim 10 from the PCT application
49	10	Claim 49 depends from claim 48, and thus is within the scope of claim 10 from the PCT application
50	10	Claim 50 depends from claim 48, and thus is within the scope of claim 10 from the PCT application
51	10	Claim 51 depends from claim 48, and thus is within the scope of claim 10 from the PCT application
52	13	Claim 52 is identical in scope with claim 13 of the PCT application
53	14	Claim 53 is identical in scope with claim 14 of the PCT application
54	10	Claim 54 depends from claim 1, and thus is within the scope of claim 10 from the PCT application
55	10	Claim 55 depends from claim 1, and thus is within the scope of claim 10 from the PCT application
56	9	Claim 56 is identical in scope with claim 9 of the PCT application
57	12	Claim 57 is identical in scope with claim 12 of the PCT application

III. All the claims in the US application sufficiently correspond to the patentable claims in the corresponding PCT application.

Signature 	Date July 22, 2011
Name (Print/Typed) Daniel W. Young	Registration Number 62,868

UNITED STATES PATENT AND TRADEMARK OFFICE

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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.
11/921,322	06/23/2010	Eduardo Alvarez	V0209.70000US01	5378

23628 7590 09/28/2011
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

EXAMINER	
WAGGONER, TIMOTHY R	
ART UNIT	**PAPER NUMBER**
3651	
MAIL DATE	**DELIVERY MODE**
09/28/2011	PAPER

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

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

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SEP 27 2011

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

In re application of
Eduardo Alvarez
Application No. 11/921,322
Filed: June 23, 2010
For: SYSTEMS, METHODS AND DEVICES FOR DISPENSING PRODUCTS FROM A KIOSK

: **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 July 22, 2011, 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 USPTO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the PCT application(s);
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the PCT application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of the latest Office action from each of the PCT application(s) containing the allowable/patentable claim(s);
(6) Applicant must submit an IDS listing the documents cited by the PCT examiner in the PCT Office action along with copies of documents except U.S. patents or U.S. patent application publications.

In light of the preliminary amendment filed on July 22, 2011. The request to participate in the PPH pilot program complies with the above requirements. Therefore, the above-identified application has been accorded "special" status.

All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Any inquiry regarding this decision should be directed to Mikado Buiz, Quality Assurance Specialist, at (571) 272-6578.

/ Mikado Buiz /

Mikado Buiz,
Quality Assurance Specialist
Technology Center 3600

MB/MB: 09/27/11

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/921,366	02/27/2009	Jon C. Loren	3800024.00461 / 1124US	6070

77202 7590 03/14/2011

K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego, CA 92130

EXAMINER	
SEAMAN, D MARGARET M	

ART UNIT	PAPER NUMBER
1625	

MAIL DATE	DELIVERY MODE
03/14/2011	PAPER

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

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

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MAR 1 4 2011

K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego CA 92130

In re Application of:
Loren, et al.
Serial No.: 11/921,366
Filed: November 30, 2007
Attorney Docket No: **3800024.00461 / 1124US**

: PETITION DECISION

This is in response to the petition filed on January 5, 2011 under 3 7 CFR 1.181 to correct the misclassification of submitted Information Disclosure Statements. Specifically, applicants request correction of the classification in PAIR of the Information Disclosure Statements submitted on July 23, 2008 and October 10, 2008 in connection with the above-referenced application and consideration by the Examiner of the documents and information contained therein.

Applicants argue the "Information Disclosure Statements were submitted in connection with the above-captioned application on July 23, 2008 and October 10, 2008. Each Information Disclosure Statement was prepared in accordance with 37 C.F.R 1.97 and 1.98. As required under 37 C.F.R 1.98, each Information Disclosure Statement contained 1) a list of all patents, publications, applications, or other information submitted for consideration by the Office, including a column that provides a space next to each document to be considered, for the examiner's initials and a heading that clearly indicates that the list is an Information Disclosure Statement; and 2) legible copies of all items listed. The items either were in English or a translation was provided. A copy of the misclassified Information Disclosure Statements filed on July 23, 2008 and October 10, 2008 is attached. The submitted Information Disclosure Statement included a tabular Form PTO-1449, which was classified as an "IDS," and a written disclosure of information. In each instance, the written disclosure of information was misclassified in PAIR as a "Transmittal Letter" (July 23,2008, "Transmittal Letter" of 3 pages, and October 10, 2008, "Transmittal Letter" of 5 pages). Consequently the information contained therein may not be considered or reviewed by the Examiner."

Applicants' argument has been accorded careful consideration and is persuasive. PAIR will be corrected to reflect the misclassification of the submitted Information Disclosure Statements of July 23, 2008 and October 10, 2008.

DECISION

The petition is **GRANTED.**

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

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

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P.O. Box 1450
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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

MAILED

DEC 12 2011

OFFICE OF PETITIONS

In re Application of

Vance, et al.

Application No. 11/921,385

Filed: April 13, 2009

Attorney Docket No. **USC-185-PCT-US**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 22, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the restriction/election requirement mailed March 14, 2011, which set a shortened period for reply of one month from its mailing date. A response was not received within the allowable period. The application became abandoned on April 15, 2011. A Notice of Abandonment was mailed on September 28, 2011.

The election filed November 22, 2011, is noted.

The application is being forwarded to Technology Center 1600, GAU 1661 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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P.O. Box 1450
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Patent No. : 7780881 B2
Application No.: 11/921427
Inventor(s) : Goodenough et al.
Issued : 08/24/2010
Title : CONTACT LENS MOLDS AND SYSTEMS AND METHODS FOR PRODUCING SAME
Attorney Docket No.: D-4124WOUS

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) 1.323.

Respecting the alleged error in Column # 10, line # 59, in the specification, comparison of the printed patent with the corresponding location in the application file reveals that the error is in the specifications submitted on 11/30/2007, and is in accordance with the record.

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

A Certificate of Correction will be issued to correct the remaining errors noted in your request.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates
of Correction Branch
(703) 756-1593 or (703) 756-1814
Date: 01/07/2011

Address: Frank J. Uxa
ATTORNEY For Applicant
4 Venture, Suite 300
IRVINE, CALIFORNIA 92618

ts/MD

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/921,514		Bjorn Skarman	0072142-000003	6594

21839 7590 11/24/2010
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER	
SHEEHAN, JOHN P	

ART UNIT	PAPER NUMBER
1793	

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):

ADIPFDD@bipc.com
offserv@bipc.com

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

Applicant: Skarman et al.
Appl. No.: 11/921,514
Filing Date: Not assigned
Title: SOFT MAGNETIC COMPOSITE MATERIALS
Attorney Docket No.: 0072142-000003
Pub. No.: US 2009/0042051 A1
Pub. Date: February 12, 2009

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on June 3, 2010, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office 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.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission and must include a copy of the application in compliance with the Office electronic filing system requirements. The applicant is directed to the following website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

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

Any questions or requests for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Tammy J. Koontz
Office of Data Management
United States Patent & Trademark Office

Adjustment date: 11/24/2010 KKING1
06/04/2010 INTEFSW 00000757 11921514
01 FC:1504 -300.00 OP

Refund Ref:
11/24/2010 0030091104

Credit Card Refund Total: $300.00

Am Exp..: XXXXXXXXXX1009

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Post Office Box 1404
Alexandria, VA 22313-1404

MAILED

MAY 23 2011

PCT LEGAL ADMINISTRATION

In re Application of
SKARMAN et al.
Application No.: 11/921,514
Filed: June 15, 2006
Attorney Docket No.: 0072142-000003
For: SOFT MAGNETIC COMPOSITE MATERIALS

DECISION

This decision is issued in response to applicants' "Petition under 37 CFR 1.182 and Request for Reconsideration" filed 23 March 2011. The response seeks to correct the bibliographic data (international application number) for the national stage application papers filed 04 December 2007, so as to allow such materials to be treated as the U.S. national stage of PCT/SE2006/000722. The required $400 petition has been submitted.

BACKGROUND

On 04 December 2007, applicants filed a U.S. national stage application that included, among other materials, payment of the U.S. basic national fee. The submission was assigned U.S. application number 11/921,514.

The materials included: (1) Transmittal Letter to the United States Designated Office (DO/EO/US) Concerning a Submission under 35 U.S.C. 371 that identified the application as a U.S. national stage of PCT/SE2007/000722; (2) a preliminary amendment that identified the application as a national stage of PCT/SE2006/000722; and (3) an application data sheet that identified the application as a national stage of PCT/SE2006/000722. Thus, applicants' 04 December 2007 filing included conflicting instructions that identified the submission as a U.S. national stage of two different international applications: PCT/SE2006/000722 and PCT/SE2007/000722.

Based on USPTO processing procedures, the application file was initiated in the USPTO PALM system as a U.S. national of PCT/SE2007/000722, the international application number set forth on the Transmittal Letter provided by applicant when filing the national stage application.

On 28 October 2008, the USPTO mailed a Notification Of Acceptance indicating that the application was a national stage of PCT/SE2007/000722 (the filing receipt also listed the application as a national stage of PCT/SE2007/000722).

On 07 November 2008, the USPTO issued a Corrected Filing Receipt which listed the application as a national stage of PCT/SE2006/000722.[1]

On 23 March 2011, applicants' "Petition under 37 CFR 1.182 and Request for Reconsideration" considered therein.

DISCUSSION

As set forth above, the bibliographic data provided by applicants incorrectly identified the international application to which the present national stage filing was directed. Correction of this error is required before the materials filed 04 December 2007 can be treated as having been directed to international application PCT/SE2006/000722, as necessary to avoid abandonment of this international application with respect to the United States.

In the present petition, applicants confirm that the identification of international application PCT/SE2007/000722 set forth on the Transmittal Letter provided by applicant was the result of a typographical error and that the correct international application herein is PCT/SE2006/000722. Applicants note that the correct international application number was contained in the materials filed 04 December 2007(specifically, the application data sheet and preliminary amendment). Finally, applicants' petition included payment of the required $400 petition fee.

The present submission satisfies the requirements for a grantable petition to correct the inadvertent error in the international application number identified on the Transmittal Letter. Accordingly, the materials filed herein on 04 December 2007 will be treated as having been directed to international application PCT/SE2006/000722.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED**.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3298

[1]The 07 November 2008 corrected filing receipt was issued prematurely, in that, applicants had not submitted a petition under 37 CFR 1.182 to correct applicants' filing error.

United States Patent and Trademark Office

MAILED

FEB 01 2011

PCT LEGAL ADMINISTRATION

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

COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK NY 10112

In re Application of
Fulga et al.
Application No.: 11/921,546
PCT No.: PCT/IL2006/000633
Int. Filing Date: 31 May 2006
Priority Date: 02 June 2005
Attorney Docket No.: 78741/JPW/JL
For: Automated Cell Therapy System

DECISION
ON
PETITION

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 06 December 2010.

DISCUSSION

As a preliminary matter, the instant renewed petition was filed within the extendable period for response to the Decision mailed on 06 May 2010. As such, the Notification of Abandonment (Form PCT/DO/EO/909) mailed on 22 October 2010 was issued in error, and it is hereby **VACATED**. The holding of abandonment is **WITHDRAWN**.

In a Decision mailed on 06 May 2010, the petition under 37 CFR 1.47(a) was dismissed as moot, in view of the submission of a declaration executed by formerly non-signing inventor Fulga. However, applicants were advised that the declaration filed on 08 May 2009 was not accepted (without prejudice) because

> Further inspection of the declaration filed on 08 May 2009 reveals that it appears to have been assembled by adding sheets separately signed by the various inventors to the remaining pages, so as to arrive at the documents submitted. For instance, the sheet signed by Mr. Clark appears to be a copy whereas the remaining pages do not. MPEP 605.04(a) explains (in part) that "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration (by combining the signature pages)."

MPEP 201.03 was also cited, and applicants were advised that

> In view of this policy, it would be appropriate for petitioner to provide complete copies of the documents as actually signed by the inventors.

In response, counsel has provided declarations signed by Clark, Porat, Belkin, Schrift and Teichman, none of which contains an entire enumeration of the inventive entity (rather, applicants appear to have attached a signed sheet to 2 pages of "boiler plate" to arrive at each such declaration). It is noted that several of the signed sheets appear to have been faxed and

later attached to non-faxed sheets to construct the submitted documents. The nature of these documents is to be contrasted with the declaration signed by Fulga and submitted on 22 February 2010, which does properly nominate the entire inventive entity. Applicants are required to file an acceptable oath or declaration signed by Clark, Porat, Belkin, Schrift and Teichman, in compliance *inter alia* with the policies described at MPEP 605.04(a) and 201.03.

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**, without prejudice.

A proper response must be filed within **ONE (1) MONTH** from the mailing date of this decision. Extensions of time may **NOT** be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**. This period for response is analogous to that which would be set by a Notification of Defective Response (Form PCT/DO/EO/916).

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

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283

United States Patent and Trademark Office

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MAY 09 2011

PCT LEGAL ADMINISTRATION

DAVID S. RESNICK
NIXON PEABODY LLP
100 SUMMER STREET
BOSTON MA 02110-2131

In re Application of	:	
Fulga et al.	:	
Application No.: 11/921,546	:	DECISION
PCT No.: PCT/IL2006/000633	:	
Int. Filing Date: 31 May 2006	:	ON
Priority Date: 02 June 2005	:	
Attorney Docket No.: 78741/JPW/JL	:	PETITION
For: Automated Cell Therapy System	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 01 March 2011.

DISCUSSION

In a Decision mailed on 01 February 2011, the renewed petition under 37 CFR 1.47(a) filed on 06 December 2010, with respect to Fulga, was dismissed as moot because counsel had provided a declaration signed by Fulga. However, the declaration was not accepted for purposes of compliance with 37 CFR 1.497(a) and (b).

In response, counsel has filed a new declaration, as well as a new petition under 37 CFR 1.47(a) requesting that the failure of joint inventor Clark to sign the new declaration be excused. However, inspection of the accompanying declaration reveals that it has been signed by all of the inventors listed on the published international application, including Clark. Therefore, the petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

The declaration filed on 01 March 2011 is acceptable for purposes of compliance with 37 CFR 1.497(a) and (b).

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**, without prejudice.

This application is being returned to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **01 March 2011**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283

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MARTIN D. MOYNIHAN D/B/A PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

MAILED

JUL 15 2011

OFFICE OF PETITIONS

In re Application of :
COHEN :
Application No. 11/921,561 : **DECISION ON PETITION**
Filed: December 5, 2007 :
Attorney Docket No. 42756 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 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, January 28, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 29, 2010.

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

This application is being referred to Technology Center AU 2612 for appropriate action by the Examiner in the normal course of business on the reply received June 30, 2011.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
11/921,564	12/05/2007	Subramaniyam	28814U	8539

7590 08/11/2010

THE NATH LAW GROUP
112 South West Street
Alexandria, VA 22314

EXAMINER	
KRISHNAN, GANAPATHY	
ART UNIT	PAPER NUMBER
1623	
MAIL DATE	DELIVERY MODE
08/11/2010	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

Patent Publication Branch
Office of Data Management

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RABIN & BERDO, PC
1101 14TH STREET NW, SUITE 500
WASHINGTON, DC 20005

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APR 11 2011

OFFICE OF PETITIONS

In re Application of	:	
Yasumasa KASUYA, et *al.*	:	
Application No. 11/921,573	:	DECISION GRANTING PETITION
Filed: December 5, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **AI-522NP**	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 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 should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2813 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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COOLEY LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON DC 20001

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JUL 05 2011

OFFICE OF PETITIONS

In re Application of	:	
NUDELMAN, Abraham et al.	:	
Application No. 11/921,578	:	DECISION ON PETITION
Filed: July 08, 2009	:	TO WITHDRAW
Attorney Docket No. **CYPR- 062/02US**	:	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 10, 2011.

The request is **NOT APPROVED**.

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

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

The request cannot be approved because the address provided does not indicate whether it's the first name inventor address. The request does not indicate the reason for withdraw on page 1.

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/

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **EHRLICH & FENSTER**
THE ROGOVIN-TIDHAR TOWER, 15TH FLOOR
11 MENACHEM BEGIN ROAD
RAMAT-GAN 52681 ISRAEL

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

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NOV 08 2010

PCT LEGAL ADMINISTRATION

In re Application of:
DESIMONE, Joseph, M., et al.
U.S. Application No.: 11/921,614
PCT No.: PCT/US2006/023722
International Filing Date: 19 June 2006
Priority Date: 17 June 2005
Attorney Docket No.: 035052/339178
For: NANOPARTICLE FABRICATION METHODS, SYSTEMS, AND MATERIALS

DECISION
(37 CFR 1.182)

This decision is issued in response to the "Petition To Grant Correction Of Named Inventor, 37 CFR 1.182" filed 28 July 2010. Applicants have paid the required $400 petition fee.

BACKGROUND

On 19 June 2006, applicants filed international application PCT/US2006/023722. The application claimed a priority date of 17 June 2005, and it designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 17 December 2007. The eleven inventors of record listed on the published international application included Ansley E. EXNER, Stephanie GRATTON, and Alex ERMOSH.

On 05 December 2007, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 28 May 2010, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497, the surcharge for filing the oath or declaration later than thirty months after the priority date, and additional claims and application-size fees.

On 28 July 2010, applicants filed a "Response To Notice To File Missing Parts" that included a preliminary amendment to reduce the claims, payment of the required surcharge and additional claims fees, the authorization to charge Deposit Account No. 16-0605 for additional required fees, an executed declaration, and the "Petition To Grant Correction Of Named Inventor, 37 CFR 1.182" considered herein.

DISCUSSSION

Section 1893.01(e) of the Manual Of Patent Examining Procedure ("MPEP") states the following:

> Where ... the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name indicated in an oath or declaration submitted under 37 CFR 1.497, for example, on account of marriage, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name. See MPEP § 605.04(c). However, where the discrepancy between the name of the inventor indicated in the international application during the international phase and the name of the inventor as it appears in the oath or declaration submitted under 37 CFR 1.497 is the result of a typographical or transliteration error, then a petition under 37 CFR 1.182 will not be required. In such case, the Office should simply be notified of the error. Similarly, a typographical or transliteration error in the name of an inventor identified in a previously submitted oath or declaration may be corrected by simply notifying the Office of the error. A new oath or declaration is not required to correct such error.

The names of three of the inventors as set forth on the declaration filed on 28 July 2010 differ from these inventors' name of record. Specifically: (1) Ansley E. EXNER executed the declaration as Ansley Exner DENNIS; (2) Alex ERMOSH executed the declaration as Alexander ERMOSHKIN; and (3) Stephanie GRATTON executed the declaration as Stephanie BARRETT. The disparities between the names of record for these inventors and the names set forth on the executed declaration are more than mere typographical or transliteration errors. Accordingly, before the declaration filed on 28 July 2010 may be accepted, a grantable petition under 37 CFR 1.182 is required to correct the names of record for these three inventors to correspond to the names set forth on the declaration.

Applicants' 28 July 2010 submission included a "Petition To Grant Correction Of Named Inventor, 37 CFR 1.182." The petition indicates that inventor Stephanie GRATTON's name has changed to Stephanie BARRETT as a result of marriage, and it requests that this inventor's name of record be corrected accordingly. The petition includes a statement from the inventor confirming this change, as required. These materials are sufficient to satisfy the requirements of a grantable petition to change the name of record for inventor Stephanie GRATTON to Stephanie BARRETT. However, the petition includes no statements or supporting documents requesting correction of the names of record for the other two inventors at issue, that is, Ansley E. EXNER and Alex ERMOSH.

Before the declaration filed on 28 July 2010 can be accepted under 37 CFR 1.497, applicants must provide the additional materials required to correct the names of records for inventors Ansley E. EXNER and Alex ERMOSH. Specifically, if the inventor's name has officially changed since the filing of the international application (as was the case with inventor BARRETT), then applicants must provide "a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order" (see MPEP section 605.04(c)). If, in the alternative, inventor's name has not officially changed but was simply listed incorrectly on the international application, then a statement must be

provided confirming the inventor's correct name and indicating that the error in the international application occurred without deceptive intent. No additional petition fee is required.

CONCLUSION

The petition under 37 CFR 1.182 to correct the name of the inventors is **DISMISSED** without prejudice.

As discussed above, applicants have provided the materials required for a grantable petition to change the name of record for inventor Stephanie GRATTON to Stephanie BARRETT; however, applicants have not provided the corresponding materials required to correct the names of record for inventor Ansley E. EXNER and Alex ERMOSH, as also required before the declaration filed on 28 July 2010 may be accepted under 37 CFR 1.497.

If applicants seek reconsideration on the merits, a request for reconsideration must be filed within **TWO (2) MONTHS** of the mail date of this decision. Any such submission should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182" and must be accompanied by the materials necessary to satisfy the outstanding requirements of a grantable petition under 37 CFR 1.182 to correct the names of record for inventors Ansley E. EXNER and Alex ERMOSH, as discussed above and in the MPEP. No additional petition fee is required.

Extensions of time are available under 37 CFR 1.136(a). Failure to file a proper and timely response will result in abandonment of the application.

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

/RichardMRoss/

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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PCT LEGAL ADMINISTRATION

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

In re Application of:
DESIMONE, Joseph, M., et al.
U.S. Application No.: 11/921,614
PCT No.: PCT/US2006/023722
International Filing Date: 19 June 2006
Priority Date: 17 June 2005
Attorney Docket No.: 035052/339178
For: NANOPARTICLE FABRICATION METHODS, SYSTEMS, AND MATERIALS

DECISION ON RENEWED PETITION
(37 CFR 1.182)

This decision is issued in response to the "Renewed Petition Under 37 CFR § 1.182 To Grant Correction Of Named Inventors" filed 17 December 2010. Applicants have previously paid the required petition fee.

BACKGROUND

The procedural background for the present application was set forth in the decision mailed 08 November 2010. The decision found that applicant had provided the materials required for a grantable petition under 37 CFR 1.182 to change the name of record for inventor Stephanie GRATTON to Stephanie BARRETT, the name of this inventor listed on the declaration filed 28 July 2010. However, the decision also found that the declaration filed on 28 July 2010 could not be accepted until applicants filed the additional materials required to correct the names of record of two other inventors whose names as listed on the declaration did not correspond to their names of record, specifically Ansley E. EXNER (listed on the declaration as Ansley Exner DENNIS) and Alex ERMOSH (listed on the declaration as Alexander ERMOSHKIN).

On 17 December 2010, applicants filed the "Renewed Petition Under 37 CFR § 1.182 To Grant Correction Of Named Inventors" considered herein.

DISCUSSSION

The present renewed petition includes the required statement from Ansley Exner DENNIS confirming that this inventor's name has changed from Ansley E. EXNER to Ansley Exner DENNIS as a result of marriage.

The renewed petition also includes the required statement from Alexander ERMOSHKIN confirming that his correct name is Alexander ERMOSHKIN and indicating that the incorrect listing of his name as Alex ERMOSH on the international application occurred without deceptive intent.

These statements, in combination with applicants' previous payment of the required petition fee, satisfy the requirements for a grantable petition to correct the names of record for these inventors from Ansley E. EXNER to Ansley Exner DENNIS and from Alex ERMOSH to Alexander ERMOSHKIN. As noted above and in the earlier decision, applicants have previously filed the materials required to correct the name of record for inventor Stephanie GRATTON to Stephanie BARRETT. Applicants' petition under 37 CFR 1.182 to correct the names of record for these three inventors to correspond to the names listed on the declaration filed 28 July 2010 is therefore appropriately granted. Based on this correction, the declaration filed 28 July 2010 is no longer defective for failure to properly identify the inventors of record. Such declaration may therefore be accepted in compliance with 37 CFR 1.497.

Applicants are encouraged to file an application data sheet (ADS) identifying the inventors by their correct names to insure that, should a patent issue herein, the names of the inventors are correctly listed thereon. See MPEP section 605.04(c).

CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of record for three inventors of record is **GRANTED**.

The names of the third, ninth, and tenth inventors have been changed as follows: Ansley E. EXNER to Ansley Exner. DENNIS; Stephanie GRATTON to Stephanie BARRETT; and Alex ERMOSH to Alexander ERMOSHKIN.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 28 July 2010.

/RichardMRoss/

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

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):
Appl. No. 11/921,655 - Attorney Docket - 0445-0388PUS1	
First Named Inventor:	**Title of Invention:**
Hiroshi KOHIRA et al.	Absorbent Article

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Signature /John W. Bailey #32,881/	Date MAY 25 2011
Name (Print/Typed) John W. Bailey	Practitioner Registration Number 32,881

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

☐ *Total of _____ forms are submitted.

Privacy Act Statement

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

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

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

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PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED

JUN 01 2011

OFFICE OF PETITIONS

In re Application of :
Kohira et al. :
Application No. 11/921,655 : DECISION ON PETITION
Filed: March 14, 2008 :
Attorney Docket No. 0445-0388PUS1 :

This is a decision on the request filed May 25, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on January 25, 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 3764 for re-mailing the Office action of January 25, 2011. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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CLARK & BRODY
1700 DIAGONAL ROAD, SUITE 510
ALEXANDRIA VA 22314

MAILED

JUL 14 2011

OFFICE OF PETITIONS

In re Application of :
Mikio Yotsukura :
Application No. 11/921,768 : DECISION ON PETITION
Filed: December 7, 2007 :
Attorney Docket No. 12140-0008 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 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, September 16, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 17, 2010. A Notice of Abandonment was mailed April 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 an Amendment, (2) the petition fee of $810.00 (previously paid March 25, 2011), and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2164 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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THE NATH LAW GROUP
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

MAILED

FEB 16 2011

OFFICE OF PETITIONS

In re Application of :
Gerrit Hoogendoorn :
Application No. 11/921,780 : DECISION ON PETITION
Filed: March 19, 2008 TO WITHDRAW FROM RECORD
Attorney Docket No. 0702-110189 :
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 13, 2011.

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

A review of the file record indicates that on February 14, 2011 the power of attorney was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219

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

In re Application of :
Ishiura et al. :
Application No.: 11/921,786 :
PCT No.: PCT/JP2006/311677 :
Int. Filing Date: 05 June 2006 : DECISION
Priority Date: 09 June 2005 :
Attorney Docket No.: 134915 :
For: Nucleic Acid, Amino Acid Encoded By Said Nucleic Acid, Probe Comprising Said Nucleic Acid Or Said Amino Acid, And Screening... :

This is in response to the "Request For Correction Of Notice Of Acceptance..." filed on 27 August 2010.

BACKGROUND

International application PCT/JP2006/311677 was filed on 05 June 2006, claimed an earlier priority date of 09 June 2005, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 14 December 2006. The period for payment of the basic national fee in the United States expired as of midnight on 09 December 2007. Applicants filed *inter alia* a basic national fee on 07 December 2007.

On 20 August 2010, a Filing Receipt and a Notice of Acceptance (Form PCT/DO/EO/903) were mailed to applicants.

DISCUSSION

Counsel requests correction of the Notice of Acceptance to show that the English translation, declaration and request for immediate examination were filed on "03/06/2008," rather than "12/07/2007" as shown on the Notice mailed on 20 August 2010.

Review of the record reveals that the papers filed on 06 March 2008 included an English translation of the international application, a request under 35 U.S.C. 371(f) and an executed declaration. The dual-language declaration does not appear to have been made on a USPTO-supplied form or under PCT Rule 4.17(iv), and does not appear to have been accompanied by the statement required under 37 CFR 1.69(b). Hence, it would not be appropriate at this time to accept said declaration for purposes of compliance with 37 CFR 1.497(a) and (b). Accordingly, the Notice of Acceptance and Filing Receipt mailed on 20 August 2010 are hereby **VACATED**. Applicants may wish to consider filing, if appropriate, a statement under 37 CFR 1.69(b).

DECISION

The request is **DISMISSED**, without prejudice..

Any response must be filed within **TWO (2) MONTHS** from the mailing date of this Decision, extendable under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT**.

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

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283

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	11921788
Filing Date	07-Dec-2007
First Named Inventor	Masamitsu Funaoka
Art Unit	1767
Examiner Name	LIAM HEINCER
Attorney Docket Number	134893
Title	METHOD FOR SEPARATING AND RECOVERING LIGNIN DERIVATIVES

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	/Christopher Brown/
Name	Christopher W. Brown
Registration Number	38025

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Decision Date : April 8,2011

In re Application of :

Masamitsu Funaoka

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11921788

Filed : 07-Dec-2007

Attorney Docket No : 134893

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

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 1767 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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MAILED

JAN 11 2011

OFFICE OF PETITIONS

In re Patent No. 7,721,698 :
Issue Date: May 25, 2010 :
Application No. 11/921,791 : NOTICE
Filed: December 7, 2007 :
Attorney Docket No. 134399

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

Doc Code: PPH.PCT.652
Document Description: Petition to make special under PCT-Patent Prosecution Highway

PTO/SB/23(PCT-PP) (05-10)
Approved for use through 01/31/2012. OMB 0651-0035
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 EUROPEAN PATENT OFFICE (EPO) AND THE USPTO

Application No:	11/921,794	Filing date:	December 7, 2007
First Named Inventor:	Karl Robert SCHÄFER		
Title of the invention:	DRIVE UNITS OF A ROTATING COMPONENT OF A PRINTING PRESS		

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/EP2006/063393

The international date of the corresponding PCT application(s) is/are: June 21, 2006

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.

REQUEST FOR PARTICIPATION IN THE PCT-PPH PILOT PROGRAM BETWEEN THE EPO AND THE USPTO

(continued)

Application No.	11/921,794
First Named Inventor	Karl Robert SCHÄFER

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 December 7, 2007

(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 December 7, 2007

II. Claims Correspondence Table:

Claims in US Application	Patentable Claims in the corresponding PCT Application	Explanation regarding the correspondence
101, 102	1, 2	direct correspondence
103 - 108	3 - 8	U.S. claims amended to remove multiple dependencies
		presented in PCT claims
109	9	direct correspondence
110 - 115	10 - 15	U.S. claims amended to remove multiple dependencies
		presented in PCT claims
116	16	direct correspondence
117	17	U.S. claims amended to remove multiple dependencies
		presented in PCT claims
118	18	direct correspondence
119 - 123	19 - 23	U.S. claims amended to remove multiple dependencies
		presented in PCT claims
124	24	direct correspondence
125	25	U.S. claims amended to remove multiple dependencies
		presented in PCT claims
126	26	direct correspondence
127	27	U.S. claims amended to remove multiple dependencies
		presented in PCT claims

REQUEST FOR PARTICIPATION IN THE PCT-PPH PILOT PROGRAM BETWEEN THE EPO AND THE USPTO

(continued)

Application No.:	11/921,704
First Named Inventor:	Karl Robert SCHAFER

II. Claims Correspondence Table (Continued):

Claims in US Application	Patentable Claims in the corresponding PCT Application	Explanation regarding the correspondence
128	28	direct correspondence
129	29	U.S. claims amended to remove multiple dependencies
		presented in PCT claims
130 - 139	30 - 39	direct correspondence
140	40	U.S. claims amended to remove multiple dependencies
		presented in PCT claims
141 - 143	41 - 43	direct correspondence
144 - 146	44- 46	U.S. claims amended to remove multiple dependencies
		presented in PCT claims

III. All the claims in the US application sufficiently correspond to the patentable claims in the corresponding PCT application.

Signature /drh/	Date 2007-09027
Name (Print/Typed) Douglas R. Hanscom	Registration Number 26600

KARIN T. DUNN

GERMAN TRANSLATION AND LANGUAGE SERVICES
Certified by the American Translators Association

4706 OLDE FORGE CT., FAIRFAX, VA 22033
TELEPHONE, FAX: 703-426-1422 · DUNN6FAM@MSN.COM

Date: September 23rd, 2010

DECLARATION

The undersigned, Karin T. Dunn, hereby states that she is well acquainted with both the English and German languages and that the attached is a true translation to the best of her knowledge and ability of the German text of the amended claims, submitted with the International Preliminary Report on Patentability, for PCT/EP2006/063393, which was filed on 21 June 2006 and was published on 28 December 2006 as WO 2006/136578 A1.

The undersigned declares that the above statement is true and that this statement was made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or document or any patent resulting therefrom.

Karin T. Dunn

Translation of the pertinent portions of a Notification of the Transmittal of the International Preliminary Report Regarding Patentability in accordance with Rule 71.1 PCT, mailed 09/03/2007

2. This report comprises a total of 5 pages including this cover sheet.

3. Enclosures are also included with the report; these include

   A total of 36 pages *(sent to the applicant and to the International Authority)*, which include

   Pages containing the description, claims and/or drawings that have been amended and upon which this report is based, and/or pages containing corrections approved by the authority (see Rule 70.16 and section 607 of the Administrative Guidelines).

4. This report contains information on the following items:

Box I Basis of the Report

Box V Reasoned statement according to Article 35(2) with regard to novelty, inventive step and industrial applicability; citations and explanations to support such statement

Box VIII Certain observations on the international application

Box I Basis of the Report

1. With regard to **language,** the opinion has been established on the basis of:

   the international application in the language in which it was filed.

2. With regard to the **components** of the international application the report is based upon

   Description, pages

7-26, 29, 33-37, 49-69	in the originally filed version
1a, 1b	received on 12/08/2006 with the letter dated 12/04/2006
1-6, 6a, 27, 28, 30-32, 38-48	received on 07/31/2007 with the letter dated 07/26/2007

   Claims, No.

1-46	received on 07/31/2007 with the letter dated 07/26/2007

   Drawings, pages

1/32-32/32	in the originally filed version

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

   Claims No. 2

   ** If item 4 applies, some or all of those sheets may be marked "superseded".*

Box V. Reasoned statement according to Article 35(2) with regard to novelty, inventive step and industrial applicability; citations and explanations to support such statement

1. Statement

Novelty (N)	Yes:	Claims 1-46
	No:	Claims
Inventive Step (IS)	Yes:	Claims 1-46
	No:	Claims
Industrial Applicability (IA)	Yes:	Claims 1-46
	No:	Claims

2. Citations and Explanations (Rule 70.7):
See supplementary pages

Box 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 descriptions are made:

See attached sheet

INTERNATIONAL PRELIMINARY REPORT REGARDING PATENTABILITY (SUPPLEMENTARY PAGES)

Re Item I
Basis of the Opinion

The changes submitted with the letter dated 07/26/2007 introduce facts that go beyond the disclosure content of the international application at the time the application was filed, contrary to Article 34(2)(b) PCT. This involves the following changes:
The preamble to Claim 2 is limited to an "angular blanket-to-blanket printing group" whereas the characterizing portion contains the expression "in the case of the linear blanket-to-blanket printing group (03)". The original disclosure makes no reference to this type of combined angular and linear blanket-to-blanket printing group. This preliminary examination report therefore assumes that the above expression is not included in the characterizing portion of Claim 2.

Re Item V.
Reasoned statement according to Article 35(2) with regard to novelty, inventive step and industrial applicability; citations and explanations to support such statement

The document WO-A-02081218 (D1) mentioned in the specification is considered the closest prior art in relation to the object of Claims 1 and 2, and discloses the preamble to both claims 1 and 2.
Consequently, the independent claims 1 and 2 differ from D1 in terms of their corresponding, shared characterizing features, which can essentially be categorized in the following four groups:

a) Length of component ≤ inside width of the side frames
b) Direction of adjustment in relation to the plane (E) to the adjacent cylinder E ≤ 15°
c) Rotor rigidly but separably connected to the journal
d) Drive motor as a synchronous motor energized by permanent magnet.

The object of Claims 1 and 2 is therefore novel (Article 33(2) PCT).
The object to be attained with the present invention can therefore be viewed as increasing the stability of an adjustable cylinder of a blanket-to-blanket printing group.
Characterizing features a)-d) each contribute to a compact, precise and play-free constellation of cylinders, wherein in their combination they become more effective with respect to a stabilization of the system.
The cited publications are able [sic], neither alone nor in combination with one another, to suggest the object having the characterizing features of Claims 1 and 2 for the stated purpose. Claims 1 and 2 are therefore based upon an inventive step (Article 33(3) PCT) and fulfill, together with the advantageous further improvements on the dependent claims 3 - 46, the requirements of Article 33(1)-(4) PCT.

Re Point VIII

Certain observations on the international application

The exemplary embodiment described on page 2, paragraph 5 does not fall under the present claims, as these are clearly limited to a motor that is energized by permanent magnet. This contradiction between the claims and the specification leads to doubts with respect to the object of the request for protection, therefore the claims are not clear (Article 6 PCT).
The aforementioned textual citation on page 2 should have characterized the exemplary embodiment clearly as a component of the invention

Claims

1. Rotating cylinder (06) of a printing press with end-surface journals (21; 22), with a drive unit and a bearing, wherein the cylinder (06) is configured as a transfer cylinder (06) of a linear or angular blanket-to-blanket printing group (03) and is arranged on side frames (11; 12) so as to be capable of moving via a bearing assembly (14) in a direction of adjustment (S) that is perpendicular to the axis of rotation of the rotating cylinder (06; 07), and wherein the end-surface journals (21; 22) of the transfer cylinder (06), when mounted, do not project through the respective side frames (11; 12), wherein the transfer cylinder (06) is rotationally actuated by its own drive motor (81), and wherein the bearing assembly (14) has a movable bearing block (34) configured to accommodate the journal (21; 22) of the transfer cylinder (06; 07), which is positioned on the inside of said bearing assembly relative to the alignment of the side frame (11; 12), characterized in that the transfer cylinder (06), including its barrel (26; 27) and its journals (21; 22), has a length (L06) that is smaller than or equal to an inside width (L) between the side frames (11; 12) that support the transfer cylinder (06) at both end surfaces, in that the bearing assembly (14) that enables the movement of the transfer cylinder (06) is arranged on the side frame (11) in such a way that, in the case of the linear blanket-to-blanket printing group (03), its direction of adjustment (S) forms an angle with the plane (E) that connects the rotational axes of the four cylinders (06; 07) in the print-on setting, and in the case of the angular blanket-to-blanket printing group (03) forms an angle with the plane (E') that connects the rotational axes of the cylinders (06) that form the printing point (05), said angle measuring a maximum of 15°, in that a rotor (84) of the drive motor (81) is rigidly but detachably connected to the journals (21; 22) of the rotating cylinder (06; 07), in that a stator (86) of the drive motor (81) is rigidly but detachably connected to the movable bearing block (34) in such a way that it moves along with it during the adjusting movement, and in that the drive motor (81) is configured as a permanent magnet synchronous motor (81).

2. Rotating cylinder (06; 07) of a printing press with end-surface journals (21; 22), with a drive unit and a bearing, wherein the cylinder (06; 07) is configured as a forme cylinder (07) of an angular blanket-to-blanket printing group (03) and is arranged on side frames (11; 12) so as to be capable of moving via a bearing assembly (14) in a direction of adjustment (S) that is perpendicular to the axis of rotation of the forme cylinder (07), and wherein the end-surface journals (21; 22) of the forme cylinder (07), when mounted, do not project through the respective side frames (11; 12), wherein the forme cylinder (07) is rotationally actuated by its own drive motor (81), and wherein the bearing assembly (14) has a movable bearing block (34) configured to accommodate the journal (21; 22) of the forme cylinder (07), which is positioned on the inside of said bearing assembly relative to the alignment of the side frame (11; 12), characterized in that the forme cylinder (07), including its barrel (26; 27) and its journals (21; 22), has a length (L07) that is smaller than or equal to an inside width (L) between the side frames (11; 12) that support the forme cylinder (07) at both end surfaces, in that the bearing assembly (14) that enables the movement of the forme cylinder (07) is arranged on the side frame (11) in such a way that its direction of adjustment (S) in the case of the linear blanket-to-blanket printing group (03) forms a maximum angle of 15° with the plane (E') that connects the rotational axes of the forme and transfer cylinders (06; 07) of the printing group, in that a rotor (84) of the drive motor (81) is rigidly but detachably connected to the journals (21; 22) of the forme cylinder (07), in that a stator (86) of the drive motor (81) is rigidly but detachably connected to the movable bearing block (34) in such a way that it moves along with it during the adjusting movement, and in that the drive motor (81) is configured as a permanent magnet synchronous motor (81).

3. Rotating cylinder (06; 07) according to Claim 1 or 2, characterized in that the rotor (84) of the drive motor (81) is connected, torsion-proof but detachably, to a motor shaft (85), which is in turn

connected, torsion-proof but detachably, to the journal (21; 22) of the rotating cylinder (06; 07).

4. Rotating cylinder according to Claim 1 or 2, characterized in that a clamping element (98) that projects through the side frame (11; 12) is rigidly but detachably connected to the bearing block (34), and in that the stator (86) of the drive motor (81) that lies on the exterior side of the side frame (11; 12) is rigidly but detachably arranged on the clamping element (98).

5. Rotating cylinder according to Claim 1 or 2, characterized in that the bearing assembly (14) has stationary bearing stationary elements (32) and the movable bearing block (34) that holds the journals (21; 22).

6. Rotating cylinder according to Claim 1 or 2, characterized in that the drive motor (81) is configured without bearing inside the motor between the stator (86) and rotor (84).

7. Rotating cylinder according to Claim 1 or 2, characterized in that a radial bearing (31) that absorbs the radial forces between the stator (86) and rotor (84) is provided only in the bearing assembly (14).

8. Rotating cylinder according to Claim 1 or 2, characterized in that a means of support and/or for preventing torsion in the drive motor (81), especially in the stator (86) or its housing (182), is provided on the side frame (11; 12).

9. Rotating cylinder according to Claim 8, characterized in that a guide (103) is provided for support and/or torsion prevention.

10. Rotating cylinder according to Claim 1 or 2, characterized in that permanent magnets (89) are connected torsionless to the rotating cylinder (06; 07).

11. Rotating cylinder according to Claim 1 or 2, characterized in that the drive motor (81) is configured with bearing inside the motor between stator (86) and rotor (84).

12. Rotating cylinder according to Claim 1 or 2, characterized in that the drive motor (81), especially at least its rotor (84), is arranged essentially coaxially to the rotational axis of the cylinder (06; 07).

13. Rotating cylinder according to Claim 1 or 2, characterized in that the rotor (84) of the drive motor (81) is connected torsion-proof but detachably to a motor shaft (85).

14. Rotating cylinder according to Claim 3 or 13, characterized in that a clamping element (102) is provided as the connection between rotor (84) and journal (21; 22).

15. Rotating cylinder according to Claim 3 or 13, characterized in that a clamping element (101) is provided as the connection between rotor (84) and motor shaft (85).

16. Rotating cylinder according to Claim 4, characterized in that the clamping element (98) is configured as a bushing (98).

17. Rotating cylinder according to Claim 1 or 2, characterized in that a rotor of a sensor (106) that detects speed and/or angular position is connected in a torsionless manner to the rotor (84).

18. Rotating cylinder according to Claim 17, characterized in that a stator of the sensor (106) is arranged via a torsion preventing mechanism (107) on the drive motor (81) in such a way that the stator has a radial degree of freedom, especially of at least 2 mm.

19. Rotating cylinder according to Claim 1 or 2, characterized in that the rotor (84) of the drive motor (81) has poles of permanent magnets (89).

20. Rotating cylinder according to Claim 1 or 2, characterized in that a cooling device, especially a fluid circuit, is provided on the drive motor (81).

21. Rotating cylinder according to Claim 1 or 2, characterized in that a rotary transformer (111, 112) is provided on the drive motor (81).

22. Rotating cylinder according to Claim 1 or 2, characterized in that the bearing assembly (14) has a bearing block (34) and two linear bearings (29) that encompass the bearing block (34).

23. Rotating cylinder according to Claim 1 or 2, characterized in that the bearing assembly (14) comprises an actuator (43) for implementing adjustment movement, said actuator being integrated into the bearing assembly (14).

24. Rotating cylinder according to Claim 23, characterized in that the two linear bearings (29) are positioned opposite one another and encompass the bearing block (34) in such a way that the bearing pre-tension and the bearing forces encounter or accommodate an essential component in a direction perpendicular to the axis of rotation of the cylinder (06; 07).

25. Rotating cylinder according to Claim 1, 2 or 3, characterized in that the bearing assembly (14) has linear bearings (29), by means of which the rotating component can be moved linearly.

26. Rotating cylinder according to Claim 25, characterized in that the rotating component is configured to be pre-installed along with the bearing unit (14).

27. Rotating cylinder according to Claim 1 or 2, characterized in that the drive motor (81) receives signals for the desired angular position and/or angular speed and/or guide axis position (ϕ) from a signal line (171) that guides a virtual guide axis.

28. Rotating cylinder according to Claim 19, characterized in that the permanent magnets (89) have rare-earth materials.

29. Rotating cylinder according to Claim 1 or 2, characterized in that the rotor (84) of the drive motor (81) is mounted so as to be axially movable relative to the side frame (11; 12), and in that the rotor (84) of the drive motor (81) and the stator (86) that interacts with it are mounted so as to be movable in an axial direction relative to one another.

30. Rotating cylinder according to Claim 29, characterized in that the stator (86) is mounted so as to be movable relative to the side frame (11; 12) in terms of an axial direction of the cylinder (06; 07).

31. Rotating cylinder according to Claim 30, characterized in that the stator (86) is at least indirectly connected torsion-proof to the side frame (11; 12).

32. Rotating cylinder according to Claim 31, characterized in that a housing (182) of the drive motor (81) is at least indirectly connected to the side frame (11; 12) in a manner that is rigid to compression and tension in the axial direction of the cylinder (06; 07).

33. Rotating cylinder according to Claim 32, characterized in that the housing (182) is connected at least indirectly to a part of a bearing assembly (14), which is in turn connected to the side frame (11; 12) so as to be rigid to compression and tension in the axial direction of the cylinder (06; 07).

34. Rotating cylinder according to Claim 30, characterized in that the rotor (84) is at least indirectly connected to the cylinder (06, 07) so as to be rigid to compression and tension in the axial direction.

35. Rotating cylinder according to Claim 29, characterized in that the stator (86) is arranged stationary in relation to an axial direction of the cylinder (06; 07).

36. Rotating cylinder according to Claim 1 or 2, characterized in that the stator (86) has at least one stator segment (86'), whose effective surface that interacts with the rotor (86) extends in a circumferential direction only over an angular segment that is smaller than 360°.

37. Rotating cylinder according to Claim 36, characterized in that only one stator segment (86') that interacts with the rotor (84) is provided.

38. Rotating cylinder according to Claim 36, characterized in that a plurality of stator segments (86'), especially two, that interact with the rotor (84) are provided, spaced from one another in a circumferential direction.

39. Rotating cylinder according to Claim 36, characterized in that the stator segments (86') cover a total of less than 300°, especially less than 240°, of the full circumference.

40. Rotating cylinder according to Claim 1, 2 or 36, characterized in that the rotor (84), viewed in a circumferential direction, is formed from a plurality of individual rotor segments (86') that can be mounted on a shaft.

41. Rotating cylinder according to Claim 40, characterized in that the rotor segments (86') together cover the entire circular circumference of 360°.

42. Rotating cylinder according to Claim 40, characterized in that the rotor segments (86') have permanent magnets (89).

43. Rotating cylinder according to Claim 40, characterized in that the rotor segments (86') have windings for generating an electrical magnetic field.

44. Rotating cylinder according to Claim 1, 2 or 6, characterized in that the drive motor (81) is configured as an external-rotor motor with an internal stator (86).

45. Rotating cylinder according to Claim 1, 2 or 6, characterized in that the drive motor (81) is configured as an internal-rotor motor with an external stator (86).

46. Rotating cylinder according to Claim 1, 2, 3 or 13, characterized in that a detachable positive or non-positive connection is provided as the detachable connection.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/921,794	12/07/2007	Karl Robert Schäfer	W1.2620 PCT-US	1395

23294 7590 11/09/2010
JONES, TULLAR & COOPER, P.C.
P.O. BOX 2266 EADS STATION
ARLINGTON, VA 22202

EXAMINER	
CULLER, JILL E	

ART UNIT	PAPER NUMBER
2854	

MAIL DATE	DELIVERY MODE
11/09/2010	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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JONES, TULLAR & COOPER, P.C.
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In re Application of
SCHäFER et al.
Application No.: 11/921,794
Filed: 07 December 2007
Attorney Docket No.: W1.2620 PCT-US
For: DRIVE UNITS OF A ROTATING COMPONENT OF A PRINTING PRESS

: DECISION ON REQUEST TO
: PARTICIPATE IN THE PCT PATENT
: PROSECUTION HIGHWAY PILOT
: PROGRAM AND PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(d)

This is a decision on the request to participate in the PCT Patent Prosecution Highway (PCT-PPH) pilot program and the petition under 37 CFR 1.102(a), filed 27 September 2010, to make the above-identified application special.

The request and petition are **DISMISSED**.

Discussion

A grantable request to participate in the PCT-PPH pilot program and petition to make special require:

(1) The U.S. application must have an eligible relationship to one or more PCT applications where the ISA or IPEA are the JPO, EPO, KIPO, or USPTO;

(2) At least one claim in the PCT application has novelty, inventive step, and industrial applicability and must be free of any observations in Box VIII in the latest work product in the international stage or applicant must identify and explain why the claim(s) is/are not subject to the observation in Box VIII;

(3) Applicant must submit a copy of the claim(s) from the PCT application(s) that have novelty, inventive step, and industrial applicability along with an English translation thereof and a statement that the English translation is accurate, if the claims are not in the English language;

(4) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the claim(s) that have novelty, inventive step, and industrial applicability in the PCT application(s);

(5) Examination of the U.S. application has not begun;

(6) Applicant must submit a copy of the latest international work product from the PCT application indicating that the claim(s) have novelty, inventive step, and industrial applicability along with an English translation thereof and a statement that the English translation is accurate

if the latest international work product is not in the English language;

(7) Applicant must submit an IDS listing the documents cited by the PCT examiner in the international work product along with copies of documents except U.S. patents or U.S. patent application publications.

Conditions (1) and (3-7) above are considered to have been met. However, the request to participate in the PPH pilot program and petition fails meet condition (2).

Regarding the requirement of condition (2), the claims in the PCT application which were indicted as having novelty, inventive step, and industrial applicability were not free of any observations in Box VIII in the latest work product in the international stage. Applicant must identify and explain why the claims are not subject to the observation in Box VIII.

Applicant is given **ONE** opportunity within a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be filed via the Electronic Filing System (EFS) with the Document Code PPH.PCT.652. Any preliminary amendments and IDS submitted with the PPH documents must be separately indexed as a preliminary amendment and IDS, respectively.

Telephone inquiries concerning this decision should be directed to Lee W. Young at 571-272-4549.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

Lee W. Young
TQAS Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	)
	)
Karl Robert SCHÄFER et al.	) DOCUMENT CODE PPH.PCT.652
	)
Application No. : 11/921,794	) Confirmation No.: 1395
	)
Filed: December 7, 2007	) Group Art Unit: 3656
	)
For: DRIVE UNITS OF A ROTATING COMPONENT OF A PRINTING PRESS	) Examiner: Lee W. Young
	)

REQUEST FOR RECONSIDERATION OF
DECISION ON REQUEST TO PARTICIPATE
IN THE PCT-PPH PILOT PROGRAM

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

Sir:

It is requested that the Request to Participate in the PCT-PPH Pilot Program, originally filed on September 27, 2010, in the subject U.S. patent application, and dismissed in the Decision mailed to the undersigned on November 9, 2010, be reconsidered and granted in response to the concurrently submitted Third Preliminary Amendment and the discussion set forth below.

In the dismissal of the Request filed on September 27, 2010, it was noted that the IPER mailed in PCT/EP2006/063393 on September 3, 2007, recited, in Box VIII, that the exemplary embodiment disclosed on page 2, paragraph 5, did not fall within the present claims. It was recited that the claims are clearly limited to a motor that is energized by permanent magnets. It was indicated, by the Examiner in the IPER, that

the textual citation at page 2 should have characterized the exemplary embodiment clearly as a component of the invention.

It is believed to be clear on the face of the discussion of the Box VIII observation that the claims in the application are not subject to the observation in Box VIII. As recited in the observation itself, it was one paragraph of the specification that did not fall under the claims. It is believed to be self-evident, from the reading of the observation in Box VIII, that the claims are not subject to the observation. If anything, it is paragraph 5 of page 2 of PCT/EP2006/063393 that is subject to the recited observation.

In the Substitute Specification, as filed, the objected-to paragraph, which is paragraph 011 of the Substitute Specification, was amended to recite, "In one advantageous embodiment of the present invention..." (emphasis added). By the Third Preliminary Amendment, which is being filed concurrently herewith, that paragraph 011 of the Substitute Specification is being further amended to now recite, "In one advantageous embodiment, which is a component of the present invention..." (emphasis added). The language being added to paragraph 011 of the Substitute Specification is the language suggested by the Examiner in the observation set forth in Box VIII of the IPER.

It is believed that the claims which have been indicated as having novelty, inventive step and industrial applicability were, and still are, not subject to the observation in Box VIII of the IPER. The proposed change to be made to paragraph 011 of the Substitute Specification, by the Third Preliminary Amendment, is being submitted to even more clearly confirm the Substitute Specification to the Examiner's suggestion made in the observation in Box VIII of the IPER.

It is requested that the Request to Participate, filed in the subject U.S. patent application on September 27, 2010, be granted and that the application be accorded "special status". The Examiner is requested to contact the undersigned to resolve any remaining issues.

Respectfully Submitted,

Karl Robert SCHÄFER et al.
Applicants

JONES, TULLAR & COOPER, P.C.
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December 3, 2010

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Attorney Docket: W1.2620 PCT-US

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/921,794	12/07/2007	Karl Robert Schäfer	W1.2620 PCT-US	1395

23294 7590 12/08/2010

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EXAMINER	
CULLER, JILL E	
ART UNIT	**PAPER NUMBER**
2854	

MAIL DATE	DELIVERY MODE
12/08/2010	PAPER

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

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ARLINGTON VA 22202

In re Application of	**: DECISION ON REQUEST TO**
SCHäFER et al.	**: PARTICIPATE IN THE PCT PATENT**
Application No.: 11/921,794	**: PROSECUTION HIGHWAY PILOT**
Filed: 07 December 2007	**: PROGRAM AND PETITION**
Attorney Docket No.: W1.2620 PCT-US	**: TO MAKE SPECIAL UNDER**
For: DRIVE UNITS OF A ROTATING COMPONENT OF A PRINTING PRESS	**: 37 CFR 1.102(d)**

This is a decision on the request to participate in the PCT Patent Prosecution Highway (PCT-PPH) pilot program and the petition under 37 CFR 1.102(a), filed 27 September 2010 and renewed on 03 December 2010, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

A grantable request to participate in the PCT-PPH pilot program and petition to make special require:

(1) The U.S. application must disclose an eligible relationship to one or more PCT applications where the ISA or IPEA are the JPO, EPO, KIPO, or USPTO;

(2) At least one claim in the PCT application has novelty, inventive step, and industrial applicability and must be free of any observations in Box VIII in the latest work product in the international stage or applicant must identify and explain why the claim(s) is/are not subject to the observation in Box VIII;

(3) Applicant must submit a copy of the claim(s) from the PCT application(s) that have novelty, inventive step, and industrial applicability along with an English translation thereof and a statement that the English translation is accurate, if the claims are not in the English language;

(4) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the claim(s) that have novelty, inventive step, and industrial applicability in the PCT application(s);

(5) Examination of the U.S. application has not begun;

(6) Applicant must submit a copy of the latest international work product from the PCT application indicating that the claim(s) have novelty, inventive step, and industrial applicability along with an English translation thereof and a statement that the English translation is accurate

if the latest international work product is not in the English language;

(7) Applicant must submit an IDS listing the documents cited by the PCT examiner in the international work product along with copies of documents except U.S. patents or U.S. patent application publications.

The request to participate in the PCT-PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Lee W. Young at 571-272-4549.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

This application will be forwarded to the examiner for action on the merits commensurate with this decision once this application's formality reviews have been completed.

Lee W. Young
TQAS Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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OFFICE OF PETITIONS

MERCK
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RAHWAY NJ 07065-0907

In re Application of :
Bryan et al. :
Application No. 11/921,903 :
Filed: December 10, 2007 :
Attorney Docket No. 21624YP :
Title: SYNTHETIC GENE CONTROL :
REGION :

DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is in response to the "PETITION FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 CFR §1.705(a) and (b)," filed August 2, 2011. Applicants request that the determination of patent term adjustment be increased by sixty-eight (68) days to four hundred and thirty-one days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction partly on the basis that the Office will take in excess of three years to issue this patent. In addition, applicants contend that one period of adjustment for examination delay pursuant to 37 C.F.R. § 1.703(a)(1) should be 424 days, and not 425 days.

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

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

---

[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.

Applicants argue that a single period of Office delay was miscalculated, based on an erroneous fulfillment date. Applicants argue that the fulfillment date should be December 14, 2007, and not December 13, 2007, as indicated on form M903, mailed on October 15, 2009. Applicants' argument has been considered and it has been deemed persuasive; it follows that the examination delay pursuant to 37 C.F.R. § 1.703(a)(1) totals 424 days, and not 425 days.

The adjustment of 425 days has been removed, and an adjustment of 424 days has been entered in its place.

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 C.F.R. 1.705(d) and must include payment of the required fee under 37 C.F.R. § 1.18(e).

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

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

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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CHICAGO, IL 60603

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OFFICE OF PETITIONS

In re Application of :
Masahiro Ohishi et al :
Application No. 11/921,914 : ON PETITION
Filed: December 10, 2007 :
Attorney Docket No. 1719061

This is a decision on the petition, filed November 22, 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 14, 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 2117 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.
11/922,117	07/16/2008	Paul William Blanco	2818.1180001	4115

96642 7590 03/27/2012

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER	
BOYER, CHARLES I	

ART UNIT	PAPER NUMBER
1761	

MAIL DATE	DELIVERY MODE
03/27/2012	PAPER

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

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

UNITED STATES PATENT and TRADEMARK OFFICE

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

Mailed: MAR 2 6 2012

HP

In re Application of Blanco et al.
Serial No.: 11/922,117
Filed: July 16, 2008

DECISION ON PETITION
UNDER *37 CFR 1.48(a)(1-5)*

Title: Fabric Softening Composition

This is a decision on the PETITION TO CORRECT INVENTORSHIP OF AN APPLICATION filed November, 30, 2011 to correct inventorship under 37 CFR 1.48(a)(1-5) by adding Joseph Steven Maxim Jr. as a co-inventor to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added and removed an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.48 (a)(3); (4) providing a statement from the assignee consenting to the change in inventorship; and (5) providing the processing fee set forth in 1.17(i).

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

/Harold Y. Pyon/

Harold Y. Pyon
Supervisory Patent Examiner
Art Unit 1761
Technology Center 1700

Asha K. Nadipuram
Sterne, Kessler, Goldstein & Fox P.L.L.C.
1100 New York Avenue, N.W.
Washington, D.C. 20005-3934

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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WENDEROTH, LIND
& PONACK, L.L.P.
1030 15TH STREET, N.W.,
SUITE 400 EAST
WASHINGTON DC 20005-1503

MAILED
FEB 28 2012
OFFICE OF PETITIONS

In re Application of :
Leclerc, et al. :
Application No. 11/922,148 : ON PETITION
Filed: 13 December, 2007 :
Attorney Docket No. 2007_2188A :

This is a decision on the petition filed on 28 December, 2011, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

NOTE:

In view of their duty of candor to the Office to properly inquire to ascertain the accuracy of representations made before the Office (*see*: 37 C.F.R. §1.4, §11.18, MPEP §410), Petitioners always are reminded of the responsibility to review their records and submit accurate information to the Office.

Petitioner's submission is **ACCEPTED**.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities. **The additional fees were charged as authorized.**

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

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office **must** inquire into the

underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant application is released to Technology Center/AU 1643 for further processing in due course.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Smith Law Office
8000 Excelsior Drive, Suite 301
Madison, WI 53717

MAILED

DEC 03 2010

PCT LEGAL ADMINISTRATION

In re Application of: MADER et al.
U.S. Application No.: 11/922,211
PCT No.: PCT/EP2006/005795
Int. Filing Date: 16 June 2006
Priority Date: 16 June 2005
Attorney Docket No.: 10034.557
For: METHOD AND DEVICE FOR TREATMENT OF ANIMALS

DECISION ON PETITION UNDER 37 CFR 1.47(a)

In a decision mailed by this Office on 08 July 2010, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice for failing to satisfy all the requirements of a grantable petition. Specifically, petitioner had not submitted adequate evidence that the nonsigning inventor had received a copy of the complete application papers and refused to execute the application. Additionally, petitioner had not submitted an acceptable declaration executed by the cooperating inventors on their own behalf and on behalf of the non-signing inventor (the declaration included non-translated foreign language text thereon).

On 08 September 2010, petitioner filed the renewed petition considered herein. The renewed petition includes a statement from Peter Bruckner, with accompanying documents, which provides the required firsthand evidence that a copy of the complete application was delivered to the inventor at his last known address, and that he has not provided the executed declaration, as requested. Additionally, petitioner has submitted an acceptable declaration executed by the cooperating inventors on their own behalf and on behalf of the non-signing inventor. The petition under 37 CFR 1.47(a) is **GRANTED**.

The application is accepted without the signature of nonsigning inventor Thomas Kaub. A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the nonsigning inventor of the application will be forwarded to the inventor's last-known address, as set forth in the petition.

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298

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DEC 03 2010

PCT LEGAL ADMINISTRATION

Thomas Kaub
Robert-Koch-Strasse 4
58300 Wetter
Germany

In re Application of: MADER et al.
U.S. Application No.: 11/922,211
PCT No.: PCT/EP2006/005795
Int. Filing Date: 16 June 2006
Priority Date: 16 June 2005
Attorney Docket No.: 10034.557
For: METHOD AND DEVICE FOR TREATMENT OF ANIMALS

Dear Thomas Kaub:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298

Counsel of Record:
Smith Law Office
8000 Excelsior Drive, Suite 301
Madison, WI 53717

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JUN 20 2011

PCT LEGAL ADMINISTRATION

Law Offices of Michael A.Sanzo, LLC
15400 Calhoun Drive, Suite 125
Rockville, MD 20855

In re Application of :
Jork, et al. :
Application No.: 11/922,241 :
PCT No.: PCT/EP06/062567 :
Int. Filing Date: 24 May 2006 : DECISION
Priority Date: 17 June 2005 :
Attorney's Docket No.: 7601/12100 :
For: NOVEL WORKING MEDIA FOR REFRIDGERATION PROCESSES :

This decision is in response to applicant's "Petition to Correct 371 Date of Application" filed on 08 April 2011.

BACKGROUND

On 24 May 2006, applicant filed international application PCT/EP2006/062567 that claimed priority of an earlier German application filed 17 June 2005. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 17 December 2007.

On 14 December 2007, applicant filed a Transmittal Letter for entry into the national stage in the United States which was accompanied by an application data sheet, a preliminary amendment and the basic national fee as required by 35 U.S.C. 371(c). These papers were assigned application number 11/922,241.

On 12 January 2010, the United States Patent and Trademark Office in its capacity as a Designated Office mailed out a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903). This notice indicated that the date of receipt of the requirements of 35 U.S.C. 371(c)(1), (2) and (4) was 14 December 2007, and that the date of completion of all 35 U.S.C. 371 requirements was 31 December 2007. The Official Filing Receipt indicating a filing date of 14 December 2007 was also mailed on 12 January 2010.

On 08 April 2011, applicant submitted the current petition indicating that the date of receipt of the requirements of 35 U.S.C. 371(c)(1), (2) and (4) should have been 31 December 2007 since that was that date that all requirements were met. Further, applicant has requested that the Official Filing Receipt be corrected to indicate a filing date of 31 December 2007.

DISCUSSION

MPEP § 1893.03(b) states, in part:

> The NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903), a copy of which is reproduced in MPEP § 1893.03(a), indicates the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements, and it also indicates the date of completion of all 35 U.S.C. 371 requirements, which is further explained below. Filing receipts are mailed concurrently with the mailing of the Form PCT/DO/EO/903.
>
> The "Application Filing Date" field formerly displayed in PAIR was changed to "Filing or 371(c) Date" to clearly indicate that for international applications that enter the national stage under 35 U.S.C. 371, the information displayed in this field is the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements.

In the instant application, applicant filed the Declaration of Inventorship, signed by all of the inventors, along with the required surcharge on 31 December 2007. Therefore, the "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) should have indicated a date of receipt of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements of 31 December 2007.

CONCLUSION

The petition to accord the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements of 31 December 2007 is **GRANTED**.

This application is being forwarded to the National Stage Processing Office for issuance of a corrected "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) indicating a date of receipt of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements of 31 December 2007; and, issuance of a corrected Official Filing Receipt indicating a 371(c) date of 31 December 2007.

/Boris Milef/

Debra S. Brittingham
PCT Special Programs Examiner
PCT Legal Office
Tel: (571) 272-3280

Boris Milef
PCT Legal Examiner
PCT Legal Office

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SCHWEGMAN LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

MAILED

AUG 06 2010

OFFICE OF PETITIONS

In re Application of	:	
David J. Grainger et al	:	DECISION ON PETITION
Application No. 11/922,277	:	TO WITHDRAW
Filed: January 9, 2009	:	FROM RECORD
Attorney Docket No. 1543.014US1	:	

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 15, 2010.

The request is **APPROVED**.

The request was signed by Janet Embretson on behalf of the practitioners of record associated with Customer Number 21186.

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

All future correspondence will be directed to assignee Cambridge Enterprise Limited 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: Cambridge Enterprise Limited
The Old Schools, Trinity Lane
Cambridge CB2 1TS, United Kingdom

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
11/922,277	01/09/2009	David J. Grainger	1543.014US1

CONFIRMATION NO. 5028

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

POWER OF ATTORNEY NOTICE

OC000000042928622

Date Mailed: 08/06/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/15/2010.

- 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
11/922,277	01/09/2009	David J. Grainger	1543.014US1

CONFIRMATION NO. 5028

Cambridge Enterprise Limited
The Old Schools, Trinity Lane
Cambridge, CB2 1TS
UNITED KINGDOM

POA ACCEPTANCE LETTER

OC000000042928660

Date Mailed: 08/06/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/15/2010.

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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P.O. BOX 2938
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AUG 06 2010

OFFICE OF PETITIONS

In re Application of :
David J. Grainger et al :
Application No. 11/922,283 :
Filed: January 9, 2009 :
Attorney Docket No. 1543.013US1 :

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 15, 2010.

The request is **APPROVED**.

The request was signed by Janet Embretson on behalf of the practitioners of record associated with Customer Number 21186.

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

All future correspondence will be directed to assignee Cambridge Enterprise Limited 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: Cambridge Enterprise Limited
The Old Schools, Trinity Lane
Cambridge CB2 1TS, United Kingdom

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/922,283	01/09/2009	David J. Grainger	1543.013US1

CONFIRMATION NO. 5536

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

POWER OF ATTORNEY NOTICE

OC000000042929214

Date Mailed: 08/06/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/15/2010.

- 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
11/922,283	01/09/2009	David J. Grainger	1543.013US1

CONFIRMATION NO. 5536

Cambridge Enterprise Limited
The Old Schools, Trinity Lane
Cambridge, CB2 1TS
UNITED KINGDOM

POA ACCEPTANCE LETTER

OC000000042929277

Date Mailed: 08/06/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/15/2010.

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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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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AUG 01 2011

PCT LEGAL ADMINISTRATION

In re Application of :
Ries :
Application No.: 11/922,316 :
PCT No.: PCT/EP2006/063083 :
Int. Filing Date: 12 June 2006 : DECISION
Priority Date: 17 June 2005 :
Attorney Docket No.: 1454.1923 :
For: Magnetic Bearing Device Of A Rotor Shaft :
Against A Stator With Rotor Disc
:

This is in response to the petition under 37 CFR 1.182 filed on 20 May 2011.

DISCUSSION

In a Decision mailed on 04 December 2009, the petition under 37 CFR 1.182 filed on 12 November 2009 was granted. The Decision explained (in part) that

> Petitioner affirms that the international application number was incorrectly entered on the Transmittal Letter filed on 17 December 2007, and that "the correct International Application No. is PCT/EP2006/063083." As noted by petitioner, this international application number is consistent with other indicia appearing in the application file. Based on the totality of the evidence of record, it would be appropriate to accept petitioner's statement as to the identity of which international application was intended to enter the national stage under 35 U.S.C. 371...
>
> This application is being returned to the Office of Patent Application Processing for processing as the national stage under 35 U.S.C. 371 of PCT/EP2006/063083. The date of the application under 35 U.S.C. 371(c)(1), (2) and (4) is **17 December 2007**.

The instant petition appears to consist of copies of two sheets from the petition filed on 12 November 2009. The purpose of the instant petition is unclear, but petitioner again asserts "that the December 17, 2007 entry into the national stage was for PCT/EP2006/063083." Since the requested relief has already been granted, this petition is now **MOOT**.

DECISION

The petition is **DISMISSED AS MOOT**, without prejudice.

NO REPLY IS REQUIRED. Any request for reconsideration must be filed within TWO (2) MONTHS from the mailing date of this Decision, extendable under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT

Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being returned to the Office of Patent Application Processing continued treatment as the national stage under 35 U.S.C. 371 of PCT/EP2006/063083, including processing of the Request For Corrected Filing Receipt dated 20 May 2011. The date of the application under 35 U.S.C. 371(c)(1), (2) and (4) is **17 December 2007**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283

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JAN 04 2011

OFFICE OF PETITIONS

Viering, Jentschura & Partner - OSR
3770 Highland Ave.
Suite 203
Manhattan Beach CA 90266

In re Application of	:	
Franz Brandl, et al.	:	
Application No. 11/922,355	:	DECISION ON PETITION
Filed: December 17, 2007	:	
Attorney Docket No. P39976US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 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 August 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 $1,620, and (3) a proper statement of unintentional delay.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on December 7, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 2885 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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MAR 24 2011

PCT LEGAL ADMINISTRATION

DILWORTH & BARRESE, LLP
1000 WOODBURY ROAD
SUITE 405
WOODBURY NY 11797

In re Application of:
MEIKLE, Andrew, Stuart
U.S. Application No.: 11/922,364
PCT No.: PCT/AU2006/000837
International Filing Date: 14 June 2006
Priority Date: 15 June 2005
Attorney's Docket No.: 1278-23
For: A FLUID FLOW MONITOR

DECISION
(37 CFR 1.497(d))

This decision is issued in response to the second "Renewed Petition Request Under 37 CFR 1.497(d)" filed 11 June 2010. Applicant has previously submitted the required $130 processing fee.

BACKGROUND

The procedural background for the present application was set forth in the decisions mailed on 30 November 2009 and 12 April 2010. The 12 April 2010 decision dismissed applicants' first renewed request to correct inventorship under 37 CFR 1.497(d), finding that all the requirements of a grantable request were not satisfied. Specifically, applicants had failed to provide the consent of the assignee to in the form required under 37 CFR 3.73.

On 11 June 2010, applicant filed the second "Renewed Petition Request Under 37 CFR 1.497(d)" considered herein.

DISCUSSION

The 11 June 2010 submission includes a "Statement Under 37 CFR 3.73(b)" (Form PTO/SB/96) executed on behalf of the assignee, AquaTrip Pty Ltd. Applicant had previously submitted a statement executed on behalf of the assignee expressly consenting to the removal of William Richard COTTON as a joint inventor. These materials, in combination, provide the required consent of the assignee in compliance with 37 CFR 3.73. Applicant has therefore now satisfied the final element of a grantable request to correct inventorship under 37 CFR 1.497(d).

CONCLUSION

Applicant's second renewed request to correct inventorship under 37 CFR 1.497(d) is **GRANTED**.

The inventorship of record herein is corrected to remove William Richard COTTON as an inventor of record.

In view of this correction, the declaration filed on 07 August 2009, which names and is executed by the sole remaining inventor of record Andrew Stuart MEIKLE, may be accepted under 37 CFR 1.497.

This application is being referred to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 07 August 2009.

/RichardMRoss/

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

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	11922376
Filing Date	26-Feb-2009
First Named Inventor	Maarten Vanparys
Art Unit	3636
Examiner Name	RODNEY WHITE
Attorney Docket Number	41170-235
Title	TRACTION WIRE ARRANGEMENT AND ADJUSTABLE SUPPORT ASSEMBLY USING THE TRACTION WIRE ARRANGEMENT

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	/martin l. stern/
Name	Martin L. Stern
Registration Number	28911

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : July 14,2011

In re Application of :

Maarten Vanparys

Application No : 11922376

Filed : 26-Feb-2009

Attorney Docket No : 41170-235

DECISION ON PETITION

UNDER CFR 1.137(b)

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

The petition is **GRANTED.**

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

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

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

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

NORMAN HANSON
ABELMAN FRAYNE & SCHWAB
666 THIRD AVENUE
10TH FLOOR
NEW YORK NY 10017

MAILED

DEC 05 2011

OFFICE OF PETITIONS

In re Application :
Jacobson, et al. :
Application No. 11/922,378 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: December 13, 2007 :
Dkt. No.: NY-NIAD 219-US1 (10718066 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed October 24, 2011.

Applicants submit that the correct patent term adjustment to be indicated on the patent is 723 days, not 637 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants contest the reduction of 22 days in connection with the reply filed October 11, 2011. In this regard, applicants assert that applicants do not understand the basis of this deduction and argue that there is no requirement to file an Information Disclosure Statement. Applicants further contest the reduction of 77 days in connection with the reply filed September 21, 2011. In this regard, applicants assert that the reduction is at most 13 days.

Patentee's arguments have been considered but are not persuasive. With respect to the reduction of 22 days accorded in connection with the supplemental reply filed April 19, 2011, applicants are directed to 37 CFR 1.704(c)(8)[1]. The reduction commenced March 29, 2011, the day after the date that the initial reply was filed, and ended 22 days later on April 19, 2011, the date that the supplemental reply was filed. Thus, the reduction of 22 days will not be withdrawn.

With respect to the reduction of 77 days accorded in connection with the supplemental reply filed September 21, 2011, applicants are again directed to 37 CFR 1.704(c)(8)[2]. The reduction commenced July 7, 2011, the day after the date that the initial reply was filed, and ended 77 days later on September 21, 2011, the date that the supplemental reply was filed. Thus, the reduction of 77 days will not be withdrawn.

---

[1] 37 CFR 1.704(c)(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.

[2] Id.

With respect to the two periods of reduction at issue, applicants are advised that the period of time set forth for reply in the Office communication does not control the determination of the period of reduction in connection with the submission of supplemental replies; such period of reduction is controlled by 37 CFR 1.704(c)(8).

Accordingly, the application for patent term adjustment is DISMISSED.

In view thereof, no adjustment to the patent term set forth in the Notice of Allowance will be made.

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).

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Peter Franzen et al	:	
Application No. 11/922,453	:	DECISION GRANTING PETITION
Filed: December 18, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1876.076US1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 25, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 25, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1776 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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70243
NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
Chicago, IL 60606

MAILED

FEB 04 2011

PCT LEGAL ADMINISTRATION

In re Application of :
AOKI *et al* :
Application No.: 11/922,455 :
PCT No.: PCT/US2006/026005 :
Int. Filing Date: 30 June 2006 :
Priority Date: 30 June 2005 : **DECISION**
Attorney Docket No.: 247079-000413USPX :
For: WAGERING GAME WITH OVERLYING TRANSMISSIVE DISPLAY FOR PROVIDING ENHANCED GAME FEATURES :

This decision is in response to the papers filed 06 December 2010.

BACKGROUND

On 18 December 2007, applicants filed papers to enter the national stage of PCT/US2006/026005.

On 07 January 2010, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt.

On 09 November 2010, the DO/EO/US mailed a Letter Regarding a New Notice and/or the Status of the Application (Form PCT/DO/EO/WITH (371 Withdrawal Notice) and a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905).

On 06 December 2010, applicants submitted the instant response.

DISCUSSION

Applicants claim that the Form PCT/DO/EO/905 mailed 09 November 2010 was sent in error and request a review. This is treated under 37 CFR 1.181. No fee is required.

The Form PCT/DO/EO/905 indicates that page 7 of the specification and page 4/8 of the drawings are missing.

A review of the international application PCT/US2006/026005 filed with the United States Receiving Office on 30 June 2006 verifies that page 7 of the specification and page 4/8 of the drawings were provided by applicants.

Therefore, the Form PCT/DO/EO/905 was sent by mistake.

DECISION

Applicants' petition under 37 CFR 1.181 is hereby **GRANTED**.

The Form PCT/DO/EO/905 mailed 09 November 2010 is **VACATED**.

This application is being forwarded to the DO/EO/US for continued processing including mailing a new Form PCT/DO/EO/903 and filing receipt.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

31 AUG 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

In re Application of	:	
GEHRKE, et al.	:	DECISION ON PETITION
Serial No.: 11/922,457	:	
PCT No.: PCT/EP2006/062992	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 08 June 2006	:	
Priority Date: 23 June 2005	:	
Atty Docket No.: GEHR3002/FJD	:	
For: METHOD FOR DETECTING COMPONENT DEFECTS OF AN ANALOG SIGNAL PROCESSING CIRCUIT, ESPECIALLY FOR A MEASUREMENT TRANSMITTER	:	

This decision is in response to applicant's renewed petition under 37 CFR 1.47(a) filed 19 May 2010 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of co-inventor Friedrich Fuss.

BACKGROUND

On 09 April 2010, applicant was mailed a decision dismissing applicant's renewed petition under 37 CFR 1.47(a). Applicant was advised that the extendable period from the decision mailed 19 October 2009 continued to run.

On 19 May 2010, applicant filed the renewed petition discussed herein. As authorized, the five-month extension of time fee payment will be charged to deposit account number 02-0200. The response is considered timely filed.

DISCUSSION

As detailed in the decision mailed 03 February 2010, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items 1, 3 and 4.

Regarding the subsequent search for a valid mailing address, the MPEP further provides that:

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 in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

Applicant's present petition includes the statement that "the undersigned undertook one today, but did not find any trace of the co-inventor Mr. Friedrich Fuss...The first page of the search, which is included herewith, is typical." However, a review of the 19 May 2010 filing finds no such search results included with the petition. As such, it is not possible to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons stated above, applicant's renewed petition under 37 CFR 1.47(a) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration or electronically filed utilizing the USPTO's EFS-Web electronic filing system..

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 571-272-3294

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

MAILED

JAN 10 2011

PCT LEGAL ADMINISTRATION

In re Application of :
GEHRKE, et al. : DECISION ON PETITION
Serial No.: 11/922,457 :
PCT No.: PCT/EP2006/062992 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 08 June 2006 :
Priority Date: 23 June 2005 :
Atty Docket No.: GEHR3002/FJD :
For: METHOD FOR DETECTING COMPONENT :
DEFECTS OF AN ANALOG SIGNAL :
PROCESSING CIRCUIT, ESPECIALLY FOR A :
MEASUREMENT TRANSMITTER :

This decision is in response to applicant's renewed petition under 37 CFR 1.47(a) filed 30 November 2010 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 31 August 2010, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47. Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 30 November 2010, applicant filed the present renewed petition under 37 CFR 1.47(a) accompanied by a petition for a one-month extension of time. With payment of the one-month extension of time, applicant's present response is considered timely filed.

DISCUSSION

As detailed in the decision mailed 31 August 2010, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items 1, 3 and 4.

With the filing of the present renewed petition and accompanying exhibits applicant has satisfied the remaining item and it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons stated above, applicant's renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 08 June 2006 under 35 U.S.C. 363, and will be given a date of **15 September 2009** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 571-272-3294

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mr. Friedrich Fuss
Schwarzlocher Strasse 32
71070 Tubingen
GERMANY

MAILED

JAN 10 2011

PCT LEGAL ADMINISTRATION

In re Application of
GEHRKE, et al.
Serial No.: 11/922,457
PCT No.: PCT/EP2006/062992
Int. Filing Date: 08 June 2006
Priority Date: 23 June 2005
Atty Docket No.: GEHR3002/FJD
For: METHOD FOR DETECTING COMPONENT DEFECTS OF AN ANALOG SIGNAL PROCESSING CIRCUIT, ESPECIALLY FOR A MEASUREMENT TRANSMITTER

Dear Mr. Fuss:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor. As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, the law firm of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294

Counsel of Record:
BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176
UNITED STATES OF AMERICA

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/4/11

TO SPE OF : ART UNIT 1643

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/922467 Patent No.: 7811993

CofC mailroom date: 12-30-10

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

FOR IFW FILES: Check Claims

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

EUny

Certificates of Correction Branch

~~703-756-1814~~ 571 272 3435

Thank You For Your Assistance

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

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

Comments: The changes were made during prosecution, but the printer missed them.

/Misook Yu/ 1643

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
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WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

MAILED

JAN 25 2011

OFFICE OF PETITIONS

In re Patent No. 7,823,507 :
Issue Date: November 2, 2010 :
Application No. 11/922,472 : NOTICE
Filed: December 19, 2007 :
Attorney Docket No. 2007_2136A :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 21, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

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

This file is being forwarded to Files Repository.

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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

PTO/SB/425 (03-11)

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

Nonprovisional Application Number or Control Number (if applicable):	Patent Number (if applicable):
11/922,476	
First Named Inventor:	**Title of Invention:**
Tadahiro OHMI	INTERLAYER INSULATING FILM, INTERCONNECTION STRUCTURE, AND METHODS OF MANUFACTURING 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Signature	Date March 29, 2011
Name (Print/Typed) George C. Beck	Practitioner Registration Number 38,072

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

☐ *Total of _____ forms are submitted.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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3000 K STREET NW
WASHINGTON DC 20007

MAILED

APR 05 2011

OFFICE OF PETITIONS

In re Application of :
Tadahiro Ohmi :
Application No. 11/922,476 : DECISION ON PETITION
Filed: December 19, 2007 :
Attorney Docket No. 039262-0187 :

This is a decision on the request filed March 29, 2011, seeking relief under the provisions of an announcement by the Under Secretary and Director of the United States Patent and Trademark Office on March 17, 2011, http://www.uspto.gov/patents/announce/japan_relief_2011mar17.pdf, providing relief to inventors and patent owners in areas affected by the earthquake and resulting tsunami of March 11, 2011.

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on November 24, 2010. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

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

This application is being referred to the Technology Center, Art Unit 2818 for re-mailing the Office action of November 24, 2010. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

Doc Code: PPH.PCT.652
Document Description: Petition to make special under PCT-Patent Prosecution Highway

PTO/SB/30/PCT-EP (05-10)
Approved for use through 01/31/2012. 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.

REQUEST FOR PARTICIPATION IN THE PATENT COOPERATION TREATY - PATENT PROSECUTION HIGHWAY (PCT-PPH) PILOT PROGRAM BETWEEN THE EUROPEAN PATENT OFFICE (EPO) AND THE USPTO

Application No:	11/922,489	Filing date:	December 19, 2007
First Named Inventor:	Gunther Oskar ECKERT		
Title of the invention:	PRINTING MACHINE SYSTEM		

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/EP2006/065417

The international date of the corresponding PCT application(s) is/are: August 17, 2006

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.

REQUEST FOR PARTICIPATION IN THE PCT-PPH PILOT PROGRAM BETWEEN THE EPO AND THE USPTO

(continued)

Application No.:	11/922,489
First Named Inventor:	Gunther Oskar ECKERT

d. **(1) An information disclosure statement listing the documents cited in the international work products (ISR, WO/ISA, WO/PEA, IPER) of the corresponding PCT application.**

☐ is attached

☑ Has already been filed in the above-identified U.S. application on December 19, 2007

(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 December 19, 2007

II. Claims Correspondence Table:

Claims in US Application	Patentable Claims in the corresponding PCT Application	Explanation regarding the correspondence
119 - 138	1 - 20	direct correspondence
139 - 141	21 - 23	U.S. claims amended to remove multiple dependencies
		present in PCT claims
142 - 147	24 - 29	direct correspondence
148	30	U.S. claims amended to remove multiple dependencies
		present in PCT claims
149, 150	31, 32	direct correspondence
151 - 156	33 - 38	U.S. claims amended to remove multiple dependencies
		present in PCT claims
157 - 159	39 - 41	direct correspondence
160	42	U.S. claims amended to remove multiple dependencies
		present in PCT claims
161 - 178	43 - 60	direct correspondence

III. All the claims in the US application sufficiently correspond to the patentable claims in the corresponding PCT application.

Signature	Date September 30, 2010
Name (Print/Typed) Douglas R. Hanscom	Registration Number 26600

JAN MCLIN CLAYBERG
PATENT AND TECHNICAL TRANSLATION

JAN MCLIN CLAYBERG*
OLAF BEXHOEFT**

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CERTIFIED BY AMERICAN TRANSLATORS ASSOCIATION
*GERMAN AND FRENCH TO ENGLISH
**ENGLISH TO GERMAN

December 14, 2007

DECLARATION

The undersigned, Olaf Bexhoeft, hereby states that he is well acquainted with both the English and German languages and that the attached is a true translation to the best of his knowledge and ability of the German text of PCT/EP2006/065417, filed 08/17/2006, and published on 02/22/2007 as WO 2007/020295 A1.

The undersigned further declares that the above statement is true; and further, that this statement was made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or document or any patent resulting therefrom.

Olaf Bexhoeft

Translation of the pertinent portions of a Notification Advising the Forwarding of the International Search Report and the Written Notification from the International Searching Authority or the Declaration, mailed 12/28/2006

This International Search Report comprises a total of 4 pages.

x. Moreover, copies of the documents in regard to the prior art cited in this report are also enclosed.

1. **Basis of the Report**

a. Regarding the **language**, the international search is based on

x the international application in the language in which it was filed.

4. Regarding the title of the invention:

X the wording filed by Applicant is approved.

5. Regarding the abstract:

X the wording was determined by the Office in accordance with Rule 38.2b) in the version indicated in Field IV [and as shown on the cover sheet of the published PCT application]

6. Fig. 1, as selected by the Office, is to be published with the abstract, since Applicant has not proposed a drawing figure.

WRITTEN REPORT FROM THE INTERNATIONAL SEARCHING AUTHORITY

1. This report contains information regarding the following items:

Field No. I Basis of the Report
Field No. V Reasoned Determination under Rule 43bis.1(a)(i)

Field No. I Basis of the Report

a. Regarding the **language**, the international search is based on

x the international application in the language in which it was filed.

Field No. V Reasoned Determination under Rule 43bis.1(a)(i)

1. Determination

Novelty	Yes:	Claims 1 to 60
	No:	Claims
Inventive Activities	Yes:	Claims 1 to 60
	No:	Claims
Commercial Applicability	Yes:	Claims 1 to 60
	No:	Claims

2. Documents and Explanations:

see the attached sheet

ATTACHED SHEET

Re.: Item V

1 Reference is made to the following document:

D1: EP 0 741 020 A2

2 Independent Claim 1

2.1 Document D1 is considered to be the closest prior art. It discloses (the references in parentheses refer to this document) a printing press system, having a first printing press, which has at least one first printing unit (D1, D2, D3), as well as a first former structure (F2) arranged in a machinery alignment of this printing unit (D1, D2, D32), having a second printing press, which has at least one second printing unit (D4, D5, D6), as well as a dryer (implicit) arranged in a machinery alignment with this printing unit (D4, D5, D6), and with a second former structure (F3).

2.2 The difference between present claim 1 and D1 lies in that the first and the second former structures differ in the number of formers arranged side-by-side on a machine level, and/or in an effective width of one or several of the formers, and that a web or partial web, imprinted in the second printing unit and conducted through the dryer, can be selectively conducted onto the second former structure, or on the first former structure which differs from the second former structure in number and/or width. Therefore claim 1 is novel.

2.3 The object to be attained here consists in adapting a printing press system to different printing formats.

2.4 No suggestion is offered to one skilled in the art in the prior art of utilizing different types of formers. Furthermore, conducting the second web selectively through the appropriate second former structure or through the first former structure is not customary: this is a construction which is designed structurally differently. A corresponding matching of the formers is neither known to one skilled in the art, nor is it obvious.

Therefore present claim 1 is inventive (Article 33(3) PCT).

Dependent Claims 2 to 60

Claims 2 to 60 depend from claim 1 and therefore also meet the requirements of PCT regarding novelty and inventive activities.

4 For reasons of clarity (Article 6 PCT), present claim 18 was considered to depend from claim 4, because the printing units extending orthogonally in respect to each other are only found starting with claim 4.

Claims

1. A printing press system, having a first printing press (01), which has at least one first printing unit (02), as well as a first former structure (07) arranged in a machinery alignment (M1) of this printing unit (02), having a second printing press (31), which has at least one second printing unit (03), as well as a dryer (15) arranged in a machinery alignment (M2) with this printing unit (03), and with a second former structure (17), characterized in that the first and the second former structures (07, 17) differ in the number of formers (09, 09', 19, 19') arranged side-by-side on a machine level, and/or in an effective width of one or several of the formers 09, 19), and that a web (21) or partial web (21.1, 21.2), imprinted in the second printing unit (03) and conducted through the dryer (15), can be selectively conducted onto the second former structure (17), or on the first former structure (07) which differs from the second former structure (17) in number and/or width.

2. The printing press system in accordance with claim 1, characterized in that the web (21), which was imprinted in the second printing unit (03) and conducted through the dryer (15), can be selectively conducted in the separate production mode onto the second former structure (17) or, in the mixed production mode can be conducted, together with a web (11), or partial web (11.1, 11.2) imprinted in the first printing press (01), onto the first former structure (07) arranged in the first machinery alignment (M1).

3. The printing press system in accordance with claim 1, characterized in that the second former structure (17) is arranged in the machinery alignment (M2) of the at least second printing unit (03).

4. The printing press system in accordance with claim 1, characterized in that in respect to their axial direction, printing group cylinders (04, 06, 14, 16) of the first and second printing units (02, 03) are aligned substantially orthogonally in relation to each other.

5. The printing press system in accordance with claim 1, characterized in that in respect to their axial direction, printing group cylinders (04, 06, 14, 16) of the first and second printing units (02, 03) are aligned substantially parallel in relation to each other.

6. The printing press system in accordance with claim 1, characterized in that the two former structures (07, 17) extend orthogonally in relation to each other in respect to a transport direction (T1, T1', T2) of a web (11, 21), which is projected onto the horizontal plane and runs up on them.

7. The printing press system in accordance with claim 1, characterized in that the two former structures (07, 17) extend parallel in relation to each other in respect to a transport direction (T1, T1', T2) of a web (11, 21), which is projected onto the horizontal plane and runs up on them.

8. The printing press system in accordance with claim 1, characterized in that in respect to its print location (41), the at least one printing unit (03) of the second printing press (31), when viewed from above, is arranged laterally in regard to the machinery alignment of the first printing units (02).

9. The printing press system in accordance with claim 1, characterized in that the machinery alignment (M2) of the second printing press (31), which extends perpendicularly to the axial direction of the printing group cylinders (14, 16) of the second printing unit (03), extends substantially orthogonally to the machinery alignment (M1) of the first printing press (01) which extends perpendicularly in respect to the axial direction of the printing group cylinders (04, 06) of the first printing unit (02).

10. The printing press system in accordance with claim 1, characterized in that the machinery alignment (M2) of the second printing press (31), which extends perpendicularly to the axial direction of the printing group cylinders (14, 16) of the second printing unit (03), extends substantially parallel with the machinery alignment (M1) of the first printing press (01) which extends perpendicularly in respect to the axial direction of the printing group cylinders (04, 06) of the first printing unit (02).

11. The printing press system in accordance with claim 1, characterized in that the first printing unit (02) and the former structure (07) of the first printing press (01) are arranged in the manner of an in-line press (01) in a common machinery alignment (M1) extending perpendicularly to the axial direction of the printing group cylinders (04, 06).

12. The printing press system in accordance with claim 1, characterized in that the second printing unit (03) and the former structure (17) of the second printing press (31) are arranged in the manner of an in-line press in a common machinery alignment (M2) extending perpendicularly to the axial direction of the printing group cylinders (04, 06).

13. The printing press system in accordance with claim 1, characterized in that a turning arrangement (10) is provided at least in the machinery alignment (M1) of the first printing press (01), over which a web (21) imprinted in one production situation by means of the second printing unit (03) can be conducted onto the former structure (07) of the first printing press (01).

14. The printing press system in accordance with claim 1, characterized in that a turning arrangement (10) is provided at least in the machinery alignment (M1) of the first printing press (01), over which in a selective manner a web (21) or partial web (21.1, 21.2) imprinted in the second printing unit (03) can be conducted onto the former structure (07) of the first printing press (01), or web (11) or partial web (11.1, 11.2) imprinted in the first printing unit (02) can be conducted onto the former structure (17) of the second printing press (17).

15. The printing press system in accordance with claim 1, characterized in that the first printing press (01) has a turning arrangement (10), by means of which a web (21) running in from the second printing unit (03) can be rerouted into a transport direction (T1, T2') of a web (11) coming from the first printing unit (02).

16. The printing press system in accordance with claim 1, characterized in that the turning arrangement (10) is additionally embodied to reroute a web (11) arriving from the first printing unit (02) into a transport direction of a web (21) coming out of the second printing unit (03).

17. The printing press system in accordance with claim 1, characterized in that the first printing press (01) has a turning arrangement (10), by means of which a web (21) arriving from the direction of the machinery alignment (M2) of the second printing press (31) can be rerouted into a transport direction T1, T2') along or parallel to the machinery alignment (M1).

18. The printing press system in accordance with claim 1, characterized in that the printing units (02, 03) which extend orthogonally to each other and the former structures (07, 17) assigned to the respective machinery alignments (M1, M2) are respectively arranged on different sides of the machinery alignment (M1, M2) of the respectively other printing press (01, 31).

19. The printing press system in accordance with claim 1, characterized in that two in-line arrangements (25, 30) of the two printing presses (01, 31) are arranged in an X-placement in relation to each other in such a way that, viewed in a horizontal projection, two webs (11, 21) imprinted in the two crossing in-line arrangements (25, 30) cross each other at right angles on their path between the printing unit (02, 03) and the former structure (07, 17) which is respectively assigned in a straight-ahead extending manner.

20. The printing press system in accordance with claim 1, characterized in that in one of the two printing presses (01, 31) the printing unit (02, 03) and the former structure (07, 17) assigned to this machinery alignment (M1, M2) are arranged on the same side of the machinery alignment (M2) of the other printing press (31), and in the other printing press (01) the printing unit (03, 02) and the former structure (17, 07) assigned to this machinery alignment (M2, M1) are arranged on different sides of the machinery alignment (M1) of the first mentioned printing press (31).

21. The printing press system in accordance with one or several of claims 13 to 17, characterized in that the turning arrangement (10) is arranged in the area of the crossing point of the two imagined machinery alignments (M1, M2).

22. The printing press system in accordance with one or several of claims 13 to 17 or 21, characterized in that the turning arrangement (10) has at least one turning bar (32) which is embodied to be movable along one of the two machinery alignments (M1, M2).

23. The printing press system in accordance with one or several of claims 13 to 17 or 21, characterized in that the turning arrangement (10) has at least one turning bar (32) whose usable length, when projected onto an incoming web (11, 21), corresponds to at least three printed pages, in particular at least to the maximally usable barrel width of the image-conveying printing group cylinder (14).

24. The printing press system in accordance with claim 1, characterized in that the former structure (07) of the first printing press (01) has a group of at least two formers (09) arranged side-by-side on the same machine level.

25. The printing press system in accordance with claim 24, characterized in that two such groups of side-by-side arranged formers (09) are arranged on top of each other.

26. The printing press system in accordance with claim 25, characterized in that the two groups differ in the number and/or effective width of the side-by-side arranged formers (09).

27. The printing press system in accordance with claim 1, characterized in that the former structure (17) of the second printing press (31) has at least one former (19) on a machine level, or a group of at least two formers (19) arranged side-by-side on the same machine level.

28. The printing press system in accordance with claim 1, characterized in that the first printing press (01) has several printing units (02) in the machinery alignment (MA).

29. The printing press system in accordance with claim 28, characterized in that the printing units (02) of the first printing press (01) are embodied as printing towers (02) with several printing groups arranged on top of each other.

30. The printing press system in accordance with claim 28 or 29, characterized in that a respective web (11) can be

imprinted on both sides in several colors in the printing towers (02).

31. The printing press system in accordance with claim 1, characterized in that the at least one first printing unit (02, 03) of the first printing press (01), and the at least one printing unit (03, 02) of the second printing press (31) are embodied as printing units (02, 03) of different types.

32. The printing press system in accordance with claim 31, characterized in that the two printing units (02, 03) of different types differ from each other in the printing processes employed.

33. The printing press system in accordance with claim 31 or 32, characterized in that the two printing units (02, 03) of different types differ from each other in the maximal length effective for printing and/or in the circumference of the image-conveying printing group cylinder (04, 14).

34. The printing press system in accordance with claim 31 or 32, characterized in that one of the printing units (02, 03) is embodied to be n-times wide, and the other m-times wide, with n not being equal to m, wherein n- or m-times wide means the width for imprinting 2*n or 2*m printed pages in the longitudinal direction of the printing group cylinders (04, 14, 06, 16).

35. The printing press system in accordance with claim 1, 31, 32 or 33, characterized in that a web (11) imprinted in a printing unit (02) of the first type is conducted onto one of the former structures (07, 17) without an interaction with a means to

aid drying, and a web (21) imprinted in a printing unit (03) of the second type is conducted onto one of the former structures (07, 17) after passing through a means to aid drying.

36. The printing press system in accordance with claim 1, 31, 32 or 33, characterized in that a web (11) of uncoated or slightly coated paper with a coating weight of at most 10 g/m², in particular newsprint, passes through the printing unit (02) of the one printing press (01), and a web (21) made of satinized and/or coated paper of a coating weight of more than 10 g/m², in particular more than 20 g/m², passes through the printing unit (03) of the other printing press (31).

37. The printing press system in accordance with claim 31 or 32, characterized in that the printing unit (02) of the one type is embodied as an offset printing unit, and the printing unit (03) of the other type as flexographic printing unit.

38. The printing press system in accordance with claim 31 or 32, characterized in that the printing unit (02) of the one type is embodied as an offset or flexographic printing unit, and the printing unit (03) of the other type as a printing unit for a non-impact method.

39. The printing press system in accordance with claim 33, characterized in that the printing units (02, 03) of different types are differently embodied in such a way that it is possible to imprint different numbers of printed pages of the same format in the longitudinal direction of the printing group cylinders (04, 14) of the different printing groups (02, 03).

40. The printing press system in accordance with claim 33, characterized in that the printing units (02, 03) of different types are differently embodied in such a way that it is possible to imprint different numbers of printed pages of the same format in the circumferential direction of the printing group cylinders (04, 14) of the different printing groups (02, 03).

41. The printing press system in accordance with claim 33, characterized in that the printing unit (02, 03) of the one type has printing group cylinders (04, 06) of a width of at least four printed pages, and the printing unit (03, 02) of the other type has printing group cylinders (14, 16) of a width of two printed pages.

42. The printing press system in accordance with claim 33 or 41, characterized in that at least the image-conveying printing group cylinder (04) of the printing unit (02, 03) of the one type has a circumference corresponding to the length of two printed pages, and at least the image-conveying printing group cylinder (04) of the printing unit (03, 02) of the other type has a circumference corresponding to the length of one printed page.

43. The printing press system in accordance with claim 1, characterized in that a web (11) imprinted in the first printing unit (02) can be guided, or is guided, onto the first former structure (07) arranged in the first machinery alignment (M1), and a web (21) imprinted in the second printing unit (03) can be guided, or is guided, onto the second former structure (07) arranged in the second machinery alignment (M2).

44. The printing press system in accordance with claim 1, characterized in that the web (21) imprinted in the second printing unit (03) can be conducted, deflected by 90° viewed in the horizontal plane, by means of a turning arrangement (10) onto the first former structure (07) arranged in the first machinery alignment (M1).

45. The printing press system in accordance with claim 1, characterized in that the web (21) imprinted in the second printing unit (03) can be conducted or is conducted, deflected by 90° viewed in the horizontal plane, together with a web (11) imprinted in the first printing unit (02), onto the first former structure (07) arranged in the first machinery alignment (M1).

46. The printing press system in accordance with claim 1, characterized in that a partial web (11.1, 11.2, 21.1, 21.2) coming from the one printing press (01, 31) and containing print images of printed pages of a first format, and a partial web (21.1, 21.2, 11.1, 11.2) coming from the other printing press (31, 01) and containing print images of printed pages of a second format, are conducted onto the same former structure (07, 17).

47. The printing press system in accordance with claim 46, characterized in that the two partial webs (11.1, 11.2, 21.1, 21.2) are of different widths.

48. The printing press system in accordance with claim 34, characterized in that partial webs (11.1, 11.2) of a web (11) imprinted in an n-times wide printing unit (02) are turned by 90° into the alignment of an (n-1)-times wide printing unit (03)

and/or are conducted onto an (n-1)-times wide former structure (17).

49. The printing press system in accordance with claim 1, characterized in that an image-conveying printing group cylinder (04, 14) of the first printing unit (02) supports four printed pages of a defined format side-by-side in the axial direction, and an image-conveying printing group cylinder (14, 04) of the second printing unit (02) supports two printed pages of a defined format side-by-side in the axial direction.

50. The printing press system in accordance with claim 1, characterized in that an image-conveying printing group cylinder (04, 14) of the first printing unit (02) supports six printed pages of a defined format side-by-side in the axial direction, and an image-conveying printing group cylinder (14, 04) of the second printing unit (02) supports two printed pages of a defined format side-by-side in the axial direction.

51. The printing press system in accordance with claim 1, characterized in that an image-conveying printing group cylinder (04, 14) of the first printing unit (02) supports six printed pages of a defined format side-by-side in the axial direction, and an image-conveying printing group cylinder (14, 04) of the second printing unit (02) supports four printed pages of a defined format side-by-side in the axial direction.

52. The printing press system in accordance with claim 1, characterized in that an image-conveying printing group cylinder (04, 14) of the first printing unit (02) supports four printed

pages of a defined format side-by-side in the axial direction, and an image-conveying printing group cylinder (14, 04) of the second printing unit (02) supports two printed pages of a defined format side-by-side in the axial direction.

53. The printing press system in accordance with claim 1, characterized in that an image-conveying printing group cylinder (04, 14) of the first printing unit (02) supports six printed pages of a defined format side-by-side in the axial direction, and an image-conveying printing group cylinder (14, 04) of the second printing unit (02) supports two printed pages of a defined format side-by-side in the axial direction.

54. The printing press system in accordance with claim 1, characterized in that an image-conveying printing group cylinder (04, 14) of the first printing unit (02) supports six printed pages of a defined format side-by-side in the axial direction, and an image-conveying printing group cylinder (14, 04) of the second printing unit (02) supports four printed pages of a defined format side-by-side in the axial direction.

55. The printing press system in accordance with claim 1, 49, 50, 51, 52, 53 or 54, characterized in that an image-conveying printing group cylinder (04, 14) of one of the two different printing units (02, 03) supports two printing formes with printed pages of a defined format in the circumferential direction, and an image-conveying printing group cylinder (14, 04) of the other printing unit (03, 02) only supports one printing forme with one printed page of a defined format in the circumferential direction.

56. The printing press system in accordance with claim 1, 49, 50, 51, 52, 53 or 54, characterized in that the printing formes, or printed pages relate to the same format.

57. The printing press system in accordance with claim 1, 49, 50, 51, 52, 53, 54, 55 or 56, characterized in that the printing formes, or printed pages relate to a newspaper format.

58. The printing press system in accordance with claim 1, 49, 50, 51, 52, 53, 54, 55 or 56, characterized in that the printing formes, or printed pages relate to a tabloid format.

59. The printing press system in accordance with claim 1, 49, 50, 51, 52, 53 or 54, characterized in that the printing forms are designed as releasable printing plates.

60. The printing press system in accordance with claim 1, characterized in that, besides the turning arrangement (10), the first printing press (01) has a longitudinal cutting arrangement and a turning arrangement for partial-width web in the superstructure.

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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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/922,489	12/19/2007	Gunther Oskar Eckert	W1.2551 PCT-US	7343

23294 7590 11/09/2010

JONES, TULLAR & COOPER, P.C.
P.O. BOX 2266 EADS STATION
ARLINGTON, VA 22202

EXAMINER	
FERGUSON SAMRETH, MARISSA LIANA	
ART UNIT	PAPER NUMBER
2854	
MAIL DATE	DELIVERY MODE
11/09/2010	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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JONES, TULLAR & COOPER, P.C.
P.O. BOX 2266 EADS STATION
ARLINGTON VA 22202

In re Application of	**: DECISION ON REQUEST TO**
ECKERT et al.	**: PARTICIPATE IN THE PCT PATENT**
Application No.: 11/922,489	**: PROSECUTION HIGHWAY PILOT**
Filed: 19 December 2007	**: PROGRAM AND PETITION**
Attorney Docket No.: W1.2551 PCT-US	**: TO MAKE SPECIAL UNDER**
For: PRINTING MACHINE SYSTEM	**: 37 CFR 1.102(d)**

This is a decision on the request to participate in the PCT Patent Prosecution Highway (PCT-PPH) pilot program and the petition under 37 CFR 1.102(a), filed 30 September 2010, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

A grantable request to participate in the PCT-PPH pilot program and petition to make special require:

(1) The U.S. application must disclose an eligible relationship to one or more PCT applications where the ISA or IPEA are the JPO, EPO, KIPO, or USPTO;

(2) At least one claim in the PCT application has novelty, inventive step, and industrial applicability and must be free of any observations in Box VIII in the latest work product in the international stage or applicant must identify and explain why the claim(s) is/are not subject to the observation in Box VIII;

(3) Applicant must submit a copy of the claim(s) from the PCT application(s) that have novelty, inventive step, and industrial applicability along with an English translation thereof and a statement that the English translation is accurate, if the claims are not in the English language;

(4) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the claim(s) that have novelty, inventive step, and industrial applicability in the PCT application(s);

(5) Examination of the U.S. application has not begun;

(6) Applicant must submit a copy of the latest international work product from the PCT application indicating that the claim(s) have novelty, inventive step, and industrial applicability along with an English translation thereof and a statement that the English translation is accurate

if the latest international work product is not in the English language;

(7) Applicant must submit an IDS listing the documents cited by the PCT examiner in the international work product along with copies of documents except U.S. patents or U.S. patent application publications.

The request to participate in the PCT-PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Lee W. Young at 571-272-4549.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

This application will be forwarded to the examiner for action on the merits commensurate with this decision once this application's formality reviews have been completed.

Lee W. Young
TQAS Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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

PTO/SB/425 (03-11)

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

Nonprovisional Application Number or Control Number (if applicable):	Patent Number (if applicable):
11/922,559	
First Named Inventor:	Title of Invention:
Yoshiyuki ISHIKURA	COMPOSITIONS FOR AMELIORATING A REDUCED HIGHER BRAIN FUNCTION RESULTING FROM ORGANIC BRAIN LESIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Signature	Date April 18, 2011
Name (Print/Typed) Zhengyu Feng, Ph.D., Esq.	Practitioner Registration Number 66,816

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

■ *Total of 1 forms are submitted.

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DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

MAILED
APR 21 2011
OFFICE OF PETITIONS

In re Application of :
Ishikura et al. :
Application No. 11/922,559 : DECISION ON PETITION
Filed: December 20, 2007 :
Attorney Docket No. 47237-5024-00-US :
(414780)

This is a decision on the request filed April 18, 2011, seeking relief under the provisions of an announcement by the Under Secretary and Director of the United States Patent and Trademark Office on March 17, 2011, http://www.uspto.gov/patents/announce/japan_relief_2011mar17.pdf, providing relief to inventors and patent owners in areas affected by the earthquake and resulting tsunami of March 11, 2011.

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on October 28, 2010. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

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

This application is being referred to the Technology Center, Art Unit 1627 for re-mailing the Office action of October 28, 2010. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Welsh Flaxman & Gitler
2000 Duke Street , Suite 100
Alexandria VA 22314

MAILED

AUG 15 2011

OFFICE OF PETITIONS

In re Application of :
Adrian Menzell et al.. :
Application No. 11/922,601 : DECISION ON PETITION
Filed: May 19, 2009 :
Attorney Docket No. **A-10800** :

This is a decision on the petition, filed July 5, 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 January 19, 2011, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 27, 2011.

Petitioner contends that the Notice of Abandonment was mailed in error since at the time the Notice of abandonment was mailed the extendable time period for reply had not expired. A review of the application file record confirms that petitioner had until July 19, 2011 with a three (3)-month extension of time to file a reply. Accordingly, as the reply with the fees for a three (3) month extension of time filed July 18, 2011, is timely, 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 3783 for appropriate action in the normal course of business on the reply received July 18, 2011.

/ Ramesh Krishnamurthy/
Ramesh Krishnamurthy
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	11922791
Filing Date	19-Nov-2008
First Named Inventor	Ramtin Agah
Art Unit	1654
Examiner Name	CHRISTINA BRADLEY
Attorney Docket Number	SUB 0010 US
Title	Thrombospondin-1 Derived Peptides and Treatment Methods

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 67339

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

10.40(c)(2)

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	Ramtin Agah
Address	1437 Harvard Avenue
City	Salt Lake City
State	UT
Postal Code	84105

Country	US
I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/SSS/
Name	Sean S. Swidler
Registration Number	49033

UNITED STATES 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 23, 2012

In re Application of :

Ramtin Agah

Application No : 11922791

Filed : 19-Nov-2008

Attorney Docket No : SUB 0010 US

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed March 23, 2012

The request is **APPROVED.**

The request was signed by Sean S. Swidler (registration no. 49033) on behalf of all attorneys/agents associated with Customer Number 67339 . All attorneys/agents associated with Cusotmer Number 67339 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	Ramtin
Name2	Agah
Address 1	1437 Harvard Avenue
Address 2	
City	Salt Lake City
State	UT
Postal Code	84105
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
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MAILED

OCT 29 2010

OFFICE OF PETITIONS

MERCK
P O BOX 2000
RAHWAY NJ 07065-0907

In re Application of : DECISION ON REQUEST FOR
Miller, et al. : RECONSIDERATION OF PATENT
Application No. 11/922,905 : PATENT TERM ADJUSTMENT
Filed: December 21, 2007 :
Attorney Docket No. **21999YP** :

This is a decision on the petition filed on October 13, 2010, which is being treated as a petition under 37 CFR 1.705(b) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred and eight (308) days.

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

On September 3, 2010, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date was 300 days. Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[1], 330 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of patent.

In response, applicants timely filed the instant request for reconsideration of the patent term adjustment. Applicants state

[1] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. 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:
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

that the period of adjustment to the patent term should be 308 days, not 300 days. Specifically, applicants' state that:

- The application was filed on December 21, 2007. The PTO delay period is calculated from the day after the 14-month anniversary of the filing date to the first Office Action, which is the period from February 22, 2009, to January 25, 2010. This time period is 338 days rather than 330 days, which was the number of days shown on the page showing the PTO calculation of Patent Term Adjustment.

Excerpt taken from "Petition for Recalculation of Patent Term Adjustment Under to 37 CFR § 1.705(d)", filed October 13, 2010, pg. 2.

The application history has been reviewed and it has been determined that the period of adjustment to the patent term pursuant to 37 CFR 1.702(a)(1) and 37 CFR 1.703(a)(1) is 330 days, not 338 as applicants assert.

At the outset, patentees did not use the completion date of January 1, 2008, in calculating the period of adjustment under 37 CFR 1.703(a)(1). As stated in 37 CFR 1.703(a)(1), the period of adjustment under § 1.702(a) is the number of days in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements under 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first. It is noted that the requirements of 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) were received on December 21, 2007, however the application could not have been said to have fulfilled, or completed, all of the 35 U.S.C. 371 requirements until January 1, 2008. More specifically, where a request for early processing is not made pursuant to 35 U.S.C. 371(f), the date of completion of all 35 U.S.C. 371 requirements cannot be before the expiration of thirty months from the earliest priority date. See 37 U.S.C. 371(f). It is noted that applicants did not request early processing for this application pursuant to 35 U.S.C. 371(f). The earliest priority date for this application is July 1, 2005, and the date that is thirty months therefrom is January 1, 2008. Accordingly, January 1, 2008, is the date the application fulfilled all of the requirements under 35 U.S.C. 371 and is the date that should be used to calculate the examination delay under 37 CFR 1.703(a).

Pursuant to 37 CFR 1.703(a)(1), the period of adjustment under 37 CFR 1.702(a) is 330 days, counting the number of days beginning on the day after the date that is fourteen months after the date on which the application fulfilled the requirements under 35 U.S.C. 371, March 2, 2009, and ending on the date of mailing of the non-final Office action, January 25, 2010. Accordingly, the period of adjustment of 330 days remains unchanged.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 300 days (330 days of Office delay - 30 days of applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) was received on October 13, 2010. No additional fees are required.

Patentees are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) would have been calculated at the time of the issuance of the patent and the patent term adjusted accordingly. Any request for reconsideration of the patent term adjustment indicated on the patent was required to be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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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Date : March 25, 2011

Patent No. :7863307
Ser. No. :11/922905
Inventor(s) :Ross A Miller et. al
Issued :Jan. 4, 2011
Title :PROCESS FOR SYNTHESIZING A CEPT INHIBITOR

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) 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.

Any inquiry concerning this communication should be directed to Ms. A. Green at 571-272-9005.

/A. Green/

For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (571) 272- 9005

James L. McGinnis
Merck & Co., Inc.
P.O. Box 2000
Rahway, NJ 07065-0907

/arg

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P O BOX 2000
RAHWAY NJ 07065-0907

MAILED

JUN 22 2011

OFFICE OF PETITIONS

In re Patent No. 7,863,307 :
Issue Date: 01/04/2011 :
Application No. 11/922,905 : ON PETITION
Filed: 12/21/2007 :
Attorney Docket No. 21999YP :

This is a decision on the petition under 37 CFR 3.81(b) filed April 8, 2011.

Patentees request correction of the front page of the Letters Patent to include the correct assignee data via Certificate of Correction. With the present request, patentees submitted a completed Certificate of Correction form and paid the requisite fees. Furthermore, it is noted that the assignment was recorded with the USPTO prior to the issuance of the patent.

In view of the above, the request under 37 CFR 3.81(b) to correct the assignee data is GRANTED.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Doc Code: PPH.PCT.652
Document Description: Petition to make special under PCT-Patent Prosecution Highway

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REQUEST FOR PARTICIPATION IN THE PATENT COOPERATION TREATY - PATENT PROSECUTION HIGHWAY (PCT-PPH) PILOT PROGRAM BETWEEN THE EUROPEAN PATENT OFFICE (EPO) AND THE USPTO

Application No:	11/922,906	Filing date:	December 27, 2007
First Named Inventor:	Gunther Oskar ECKERT		
Title of the Invention:	PRINTING MACHINE SYSTEM		

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/EP2006/065422

The international date of the corresponding PCT application(s) is/are: August 17, 2006

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(c). 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.

REQUEST FOR PARTICIPATION IN THE PCT-PPH PILOT PROGRAM BETWEEN THE EPO AND THE USPTO

(continued)

Application No.:	11/922,906
First Named Inventor:	Gunther Oskar ECKERT

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 December 27, 2007

(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 December 27, 2007

II. Claims Correspondence Table:

Claims in US Application	Patentable Claims in the corresponding PCT Application	Explanation regarding the correspondence
119 - 137	1 - 19	direct correspondence
138 - 141	20 - 23	U.S. claims amended to remove multiple dependencies
142 - 150	24 - 32	direct correspondence
151 - 156	33 - 38	U.S. claims amended to remove multiple dependencies
157 - 159	39 - 41	direct correspondence
160	42	U.S. claims amended to remove multiple dependencies
161 - 163	43 - 45	direct correspondence
164	46	U.S. claims amended to remove multiple dependencies
165 - 172	47 - 54	direct correspondence
173 - 177	55 - 59	U.S. claims amended to remove multiple dependencies
178	60	direct correspondence

III. All the claims in the US application sufficiently correspond to the patentable claims in the corresponding PCT application.

Signature	Date October 12, 2010
Name (Print/Typed) Douglas R. Hanscom	Registration Number 26600

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December 18, 2007

DECLARATION

The undersigned, Olaf Bexhoeft, hereby states that he is well acquainted with both the English and German languages and that the attached is a true translation to the best of his knowledge and ability of the German text of PCT/EP2006/065422, filed 08/17/2006, and published on 02/22/2007 as WO 2007/020288 A1.

The undersigned further declares that the above statement is true; and further, that this statement was made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or document or any patent resulting therefrom.

Olaf Bexhoeft
Olaf Bexhoeft

Translation of the pertinent portions of a Notification Advising the Forwarding of the International Search Report and the Written Notification from the International Searching Authority or the Declaration, mailed 01/25/2007

This International Search Report comprises a total of 5 pages.

x. Moreover, copies of the documents in regard to the prior art cited in this report are also enclosed.

1. **Basis of the Report**

a. Regarding the **language**, the international search is based on

x the international application in the language in which it was filed.

4. Regarding the title of the invention:

X the wording filed by Applicant is approved.

5. Regarding the abstract:

X the wording was determined by the Office in accordance with Rule 38.2b) in the version indicated in Field IV [and as shown on the cover sheet of the published PCT application]

6. Fig. 1, as selected by the Office, is to be published with the abstract, since Applicant has not proposed a drawing figure.

WRITTEN REPORT FROM THE INTERNATIONAL SEARCHING AUTHORITY

1. This report contains information regarding the following items:

Field No. I Basis of the Report
Field No. V Reasoned Determination under Rule 43bis.1(a)(i)

Field No. I Basis of the Report

a. Regarding the **language**, the international search is based on

x the international application in the language in which it was filed.

Field No. V Reasoned Determination under Rule 43bis.1(a)(i)

1. Determination

Novelty	Yes:	Claims 1 to 60
	No:	Claims
Inventive Activities	Yes:	Claims 1 to 60
	No:	Claims
Commercial Applicability	Yes:	Claims 1 to 60
	No:	Claims

2. Documents and Explanations:

see the attached sheet

ATTACHED SHEET

Re.: Item V

For reasons of clarity (Article 6 PCT), the following was considered in the characterising portion of instant independent claim 1: "machinery alignment (M1)" was understood to relate to "machinery alignment (M1) of the first printing units (02)".

1 Reference is made to the following document:

D1: WO 03/031181 A
D2: EP 0 741 020 A2

2 Independent Claim 1

2.1 Document D1 is considered to be the closest prior art. It discloses (the references in parentheses refer to this document) a printing press system, having a first printing press, embodied as a newspaper printing press (page 8, lines 12 - 13), which has at least two first printing groups (02) designed as printing towers (01), each having a plurality of printing groups (02) arranged on top of each other embodied for two-sided multi-color printing, as well as a first former structure (11) arranged in a machinery alignment of these printing units.

2.2 The difference between present claim 1 and D1 lies in that a second printing press is provided, having at least one second printing unit with a dryer arranged in a machinery alignment of this printing unit, that in regard to its print location, the at least one printing unit of the second printing press is arranged, observed in a view from above, laterally beside the machinery alignment of the first printing unit embodied as printing towers, and that a web, or partial web, imprinted in the second printing unit and having passed through the dryer can be deflected from a transport direction, which extends perpendicularly in respect to the machinery alignment of the first printing units, by 90° and can be conducted into a transport direction which is parallel to the machinery alignment of the first printing units.

Therefore claim 1 is novel (Article 33(2) PCT.

2.3 The object to be attained here consists in creating a printing press system with increased printing flexibilities, in particular for the production of mixed products, while the transport paths of the respective webs running out of the two printing groups do not interfere with each other.

2.4 No arrangement of printing presses is known from the prior art in which a web or partial web, which was imprinted in the second printing unit and has passed through the dryer can be deflected by 90° out of a transport direction perpendicular in respect to a machinery alignment of the first printing units and can be guided in a transport direction parallel to the machinery alignment of the first printing units.

It is only possible to learn from D2 that the printing presses are arranged side-by-side parallel, and that the webs running out of the printing presses extend parallel and are deflected thereafter and are conducted into a former structure (see, in particular, D2, Fig. 6).

No suggestion is offered to one skilled in the art to consider such an arrangement, since this is not a structurally unimportant alternative.

Therefore present claim 1 is inventive (Article 33(3) PCT).

Dependent Claims 2 to 60

Claims 2 to 60 depend from claim 1 and therefore also meet the requirements of PCT regarding novelty and inventive activities.

Claims

1. A printing press system, having a first printing press (01), embodied as a newspaper printing press (01), which has at least two first printing units (02) embodied as printing towers (02) with respectively several printing groups arranged on top of each other for multi-color printing on both sides, as well as a first former structure (07) arranged in a machinery alignment (M1) of these printing groups (02), characterized in that a second printing press (31) is provided, having at least one second printing unit (03) with a dryer (15) arranged in a machinery alignment (M2) of this printing unit (03), that in regard to its print location (41), the at least one printing unit (03) of the second printing press (31) is arranged, observed in a view from above, laterally beside the machinery alignment of the first printing units (02) embodied as printing towers (02), and that a web (21), or partial web (21.1, 21.2), imprinted in the second printing unit (03) and having passed through the dryer (15), can be deflected from a transport direction (T2) which extends perpendicularly in respect to the machinery alignment (M1), by 90° and can be conducted into a transport direction (T1, T1') which is parallel to the machinery alignment (M1).

2. The printing press system in accordance with claim 1, characterised in that a second former structure (17) is arranged in the machinery alignment (M2) of the at least one second printing unit (03).

3. The printing press system in accordance with claim 2, characterized in that a web (21), or partial web (21.1, 21.2), imprinted in the second printing unit (03) and having passed through the dryer (15), can be selectively conducted onto the second former structure (17) or the first former structure (07).

4. The printing press system in accordance with claim 2, characterized in that a web (21), imprinted in the second printing unit (03), can be selectively conducted in the course of a separate production onto the second former structure (17) or, in the course of a mixed production, can be conducted together with a web (11), or partial web (11.1, 11.2) imprinted in the first printing press (01) onto first former structure (07) arranged in the first machinery alignment (M1).

5. The printing press system in accordance with claim 1, characterized in that, in respect to their axial direction, the printing group cylinders (04, 06) of the at least two first printing units (02) embodied as printing towers (02), and the printing group cylinders (14, 16) of the second printing unit (03), are arranged substantially orthogonally in respect to each other.

6. The printing press system in accordance with claim 1, characterized in that, in respect to their axial direction, the printing group cylinders (04, 06) of the at least two first printing units (02) embodied as printing towers (02), and the printing group cylinders (14, 16) of the second printing unit (03), are arranged substantially parallel in respect to each other.

7. The printing press system in accordance with claim 2, characterized in that, regarding a transport direction (T1, T1', T2) projected into the horizontal plane of a web (11, 21) running up on them, the two former structures (07, 17) are arranged orthogonally to each other.

8. The printing press system in accordance with claim 2, characterized in that, regarding a transport direction (T1, T1', T2) projected into the horizontal plane of a web (11, 21) running up on them, the two former structures (07, 17) are arranged parallel to each other.

9. The printing press system in accordance with claim 1, characterized in that the machinery alignment (M2) of the second printing press (31), which extends perpendicularly in respect to the axial direction of the printing group cylinders (14, 16) of the second printing group (03), substantially extends orthogonally in respect to the machinery alignment (M1) of the first printing press (01) extending perpendicularly to the axial direction of the printing group cylinders (04, 06) of the at least two printing towers (02).

10. The printing press system in accordance with claim 1, characterized in that the machinery alignment (M2) of the second printing press (31), which extends perpendicularly in respect to the axial direction of the printing group cylinders (14, 16) of the second printing group (03), substantially extends parallel in respect to the machinery alignment (M1) of the first printing press (01) extending perpendicularly to the axial direction of the at least two printing towers (02).

11. The printing press system in accordance with claim 1, characterized in that at least two printing towers (02) and the former structure (07) of the first printing press (01) of the type of an in-line printing press (01) is arranged in a mutual machinery alignment (M1) extending perpendicularly in respect to the axial direction of the printing group cylinders (04, 06).

12. The printing press system in accordance with claim 2, characterized in that the second printing unit (03) and the former structure (17) of the second printing press (31) of the type of an in-line printing press is arranged in a mutual machinery alignment (M2) extending perpendicularly in respect to the axial direction of the printing group cylinders (04, 06).

13. The printing press system in accordance with claim 1, characterized in that a turning arrangement (10) is provided at least in the machinery alignment (M1) of the first printing press (01), over which, in one production situation, a web (21) imprinted in the second printing unit (03) can be conducted onto the former structure (07) of the first printing press (01).

14. The printing press system in accordance with claim 2, characterized in that a turning arrangement (10) is provided at least in the machinery alignment (M1) of the first printing press (01), over which it is selectively possible to conduct a web (21) imprinted in the second printing unit (03), or partial web (21.1, 21.2) onto the former structure (07) of the first printing press (01), or a web (11) or partial web (11.1, 11.2) imprinted in a printing tower (02) of the first printing press (01) onto the former structure (17) of the second printing press (31).

15. The printing press system in accordance with claim 1, characterized in that the first printing press (01) has a turning arrangement (10), by means of which a web (21) incoming from the second printing unit (03) can be rerouted into a transport direction (T1, T2') of a web (11) coming out of a printing tower (02) of the first printing press (01).

16. The printing press system in accordance with claim 7, characterized in that the turning arrangement (10) is additionally embodied to reroute a web (11) incoming from a printing tower (02) of the first printing press (01) into a transport direction of a web coming out of the second printing unit (03).

17. The printing press system in accordance with claim 1, characterized in that the first printing press (01) has a turning arrangement (10), by means of which a web (21) incoming from the direction of the machinery alignment (M2) of the second printing press (31) can be rerouted into a transport direction (T1, T2') along of or parallel with the machinery alignment (M1).

18. The printing press system in accordance with claim 2 and 5, characterized in that the printing units (02, 03), which extend orthogonally in respect to each other and the former structures (07, 17) assigned to the respective machinery alignment (M1, M2), are respectively arranged on different sides of the machinery alignment (M1, M2) of the respectively other printing press (01, 31).

19. The printing press system in accordance with claim 2, characterized in that two in-line arrangements (25, 30) of the two

printing presses (01, 31) are arranged in an X-placement in relation to each other in such a way that, viewed in a horizontal projection, two webs (11, 21) imprinted in the two crossing in-line arrangements (25, 30) cross each other at right angles on their path between the printing unit (02, 03) and the former structure (07, 17) which is respectively assigned in a straight-ahead extending manner.

20. The printing press system in accordance with claim 2 and 5, characterized in that in one of the two printing presses (01, 31) the printing unit (02, 03) and the former structure (07, 17) assigned to this machinery alignment (M1, M2) are arranged on the same side of the machinery alignment (M2) of the other printing press (31), and in the other printing press (01) the printing unit (03, 02) and the former structure (17, 07) assigned to this machinery alignment (M2, M1) are arranged on different sides of the machinery alignment (M1) of the first mentioned printing press (31).

21. The printing press system in accordance with one or several of claims 13 to 17, characterized in that the turning arrangement (10) is arranged in the area of the crossing point of the two imagined machinery alignments (M1, M2).

22. The printing press system in accordance with one or several of claims 13 to 17 or 21, characterized in that the turning arrangement (10) has at least one turning bar (32) which is embodied to be movable along one of the two machinery alignments (M1, M2).

23. The printing press system in accordance with one or several of claims 13 to 17 or 21, characterized in that the turning arrangement (10) has at least one turning bar (32) whose usable length, when projected onto an incoming web (11, 21), corresponds to at least three printed pages, in particular at least to the maximally usable barrel width of the image-conveying printing group cylinder (14).

24. The printing press system in accordance with claim 1, characterized in that the former structure (07) of the first printing press (01) has a group of at least two formers (09) arranged side-by-side on the same machine level.

25. The printing press system in accordance with claim 24, characterized in that two such groups of side-by-side arranged formers (09) are arranged on top of each other.

26. The printing press system in accordance with claim 25, characterized in that the two groups differ in the number and/or effective width of the side-by-side arranged formers (09).

27. The printing press system in accordance with claim 2, characterized in that the former structure (17) of the second printing press (31) has at least one former (19) on a machine level, or a group of at least two formers (19) arranged side-by-side on the same machine level.

28. The printing press system in accordance with claim 2, characterized in that the first and second formers (07, 17) differ in the number of formers (09, 09', 19, 19') arranged side-

by-side on a machine level, and/or in the effective width of one or several formers (09, 19).

29. The printing press system in accordance with claim 1, characterized in that the first printing press (01) has more than two printing towers (02) in the machinery alignment (M1).

30. The printing press system in accordance with claim 1 or 29, characterized in that a web (11) is imprinted on both sides in multi-colors in the respective printing towers (02).

31. The printing press system in accordance with claim 1, characterized in that the at least two first printing units (02, 03), embodied as printing towers (02) of the first printing press (01), and the at least one second printing unit (03, 02) of the second printing press (31) are embodied as printing units (02, 03) of different types.

32. The printing press system in accordance with claim 31, characterized in that the two printing units (02, 03) of different types differ from each other in the printing processes employed.

33. The printing press system in accordance with claim 31 or 32, characterized in that the two printing units (02, 03) of different types differ from each other in the maximal length effective for printing and/or in the circumference of the image-conveying printing group cylinder (04, 14).

34. The printing press system in accordance with claim 31 or 32, characterized in that one of the printing units (02, 03) is

embodied to be n-times wide, and the other m-times wide, with n not being equal to m, wherein n- or m-times wide means the width for imprinting 2*n or 2*m printed pages in the longitudinal direction of the printing group cylinders (04, 14, 06, 16).

35. The printing press system in accordance with claim 1, 24, 25, 26 or 28, characterized in that a web (11) imprinted in imprinted in the printing unit (02) of the first type, embodied as a printing tower (02), is conducted without interaction with a means for aiding drying onto one of the former structures (07, 17) and, after passing through a means for aiding drying, a web (21) imprinted in the printing unit (03) of the second type is conducted onto one of the former structures (07, 17).

36. The printing press system in accordance with claim 1, 31, 32 or 33, characterized in that a web (11) of uncoated or slightly coated paper with a coating weight of at most 10 g/m², in particular newsprint, passes through the printing unit (02) of the one printing press (01), and a web (21) made of satinized and/or coated paper of a coating weight of more than 10 g/m², in particular more than 20 g/m², passes through the printing unit (03) of the other printing press (31).

37. The printing press system in accordance with claim 31 or 32, characterized in that the printing unit (02) of the one type is embodied as an offset printing unit, and the printing unit (03) of the other type as flexographic printing unit.

38. The printing press system in accordance with claim 31 or 32, characterized in that the printing unit (02) of the one

type is embodied as an offset or flexographic printing unit, and the printing unit (03) of the other type as a printing unit for a non-impact method.

39. The printing press system in accordance with claim 33, characterized in that the printing units (02, 03) of different types are differently embodied in such a way that it is possible to imprint different numbers of printed pages of the same format in the longitudinal direction of the printing group cylinders (04, 14) of the different printing groups (02, 03).

40. The printing press system in accordance with claim 33, characterized in that the printing units (02, 03) of different types are differently embodied in such a way that it is possible to imprint different numbers of printed pages of the same format in the circumferential direction of the printing group cylinders (04, 14) of the different printing groups (02, 03).

41. The printing press system in accordance with claim 33, characterized in that the printing unit (02, 03) of the one type has printing group cylinders (04, 06) of a width of at least four printed pages, and the printing unit (03, 02) of the other type has printing group cylinders (14, 16) of a width of two printed pages.

42. The printing press system in accordance with claim 33 or 41, characterized in that at least the image-conveying printing group cylinder (04) of the printing unit (02, 03) of the one type has a circumference corresponding to the length of two printed pages, and at least the image-conveying printing group cylinder

(04) of the printing unit (03, 02) of the other type has a circumference corresponding to the length of one printed page.

43. The printing press system in accordance with claim 2, characterized in that a web (11) imprinted in the first printing unit (02) can be guided, or is guided, onto the first former structure (07) arranged in the first machinery alignment (M1), and a web (21) imprinted in the second printing unit (03) can be simultaneously guided, or is guided, onto the second former structure (07) arranged in the second machinery alignment (M2).

44. The printing press system in accordance with claim 1, characterized in that a web (21) imprinted in the second printing unit (03) can be selectively conducted onto the second former structure (17) arranged in the second machinery alignment (M2), or, deflected by 90° viewed in the horizontal plane, onto the first former structure (07) arranged in the first machinery alignment (M1).

45. The printing press system in accordance with claim 1, characterized in that the web (21) imprinted in the second printing unit (03) can be conducted or is conducted, deflected by 90° viewed in the horizontal plane, together with a web (11) imprinted in the first printing unit (02), onto the first former structure (07) arranged in the first machinery alignment (M1).

46. The printing press system in accordance with claim 1 or 2, characterized in that a partial web (11.1, 11.2, 21.1, 21.2) coming from the one printing press (01, 31) and containing print images of printed pages of a first format, and a partial web

(21.1, 21.2, 11.1, 11.2) coming from the other printing press (31, 01) and containing print images of printed pages of a second format, are conducted onto the same former structure (07, 17).

47. The printing press system in accordance with claim 46, characterized in that the two partial webs (11.1, 11.2, 21.1, 21.2) are of different widths.

48. The printing press system in accordance with claim 34, characterized in that partial webs (11.1, 11.2) of a web (11) imprinted in an n-times wide printing unit (02) are turned by 90° into the alignment of an (n-1)-times wide printing unit (03) and/or are conducted onto an (n-1)-times wide former structure (17).

49. The printing press system in accordance with claim 1, characterized in that an image-conveying printing group cylinder (04, 14) of the first printing unit (02) supports four printed pages of a defined format side-by-side in the axial direction, and an image-conveying printing group cylinder (14, 04) of the second printing unit (02) supports two printed pages of a defined format side-by-side in the axial direction.

50. The printing press system in accordance with claim 1, characterized in that an image-conveying printing group cylinder (04, 14) of the first printing unit (02) supports six printed pages of a defined format side-by-side in the axial direction, and an image-conveying printing group cylinder (14, 04) of the second printing unit (02) supports two printed pages of a defined format side-by-side in the axial direction.

printing unit (02) supports four printed pages of a defined format side-by-side in the axial direction.

55. The printing press system in accordance with claim 1, 49, 50, 51, 52, 53 or 54, characterized in that an image-conveying printing group cylinder (04, 14) of one of the two different printing units (02, 03) supports two printing formes with printed pages of a defined format in the circumferential direction, and an image-conveying printing group cylinder (14, 04) of the other printing unit (03, 02) only supports one printing forme with one printed page of a defined format in the circumferential direction.

56. The printing press system in accordance with claim 1, 49, 50, 51, 52, 53, 54 or 55, characterized in that the printing formes, or printed pages relate to the same format.

57. The printing press system in accordance with claim 1, 49, 50, 51, 52, 53, 54, 55 or 56, characterized in that the printing formes, or printed pages relate to a newspaper format.

58. The printing press system in accordance with claim 1, 49, 50, 51, 52, 53, 54, 55 or 56, characterized in that the printing formes, or printed pages relate to a tabloid format.

59. The printing press system in accordance with claim 1, 49, 50, 51, 52, 53, 54 or 55, characterized in that the printing forms are designed as releasable printing plates.

60. The printing press system in accordance with claim 1, characterized in that, besides the turning arrangement (10), the

51. The printing press system in accordance with claim 1, characterized in that an image-conveying printing group cylinder (04, 14) of the first printing unit (02) supports six printed pages of a defined format side-by-side in the axial direction, and an image-conveying printing group cylinder (14, 04) of the second printing unit (02) supports four printed pages of a defined format side-by-side in the axial direction.

52. The printing press system in accordance with claim 1, characterized in that an image-conveying printing group cylinder (04, 14) of the first printing unit (02) supports four printed pages of a defined format side-by-side in the axial direction, and an image-conveying printing group cylinder (14, 04) of the second printing unit (02) supports two printed pages of a defined format side-by-side in the axial direction.

53. The printing press system in accordance with claim 1, characterized in that an image-conveying printing group cylinder (04, 14) of the first printing unit (02) supports six printed pages of a defined format side-by-side in the axial direction, and an image-conveying printing group cylinder (14, 04) of the second printing unit (02) supports two printed pages of a defined format side-by-side in the axial direction.

54. The printing press system in accordance with claim 1, characterized in that an image-conveying printing group cylinder (04, 14) of the first printing unit (02) supports six printed pages of a defined format side-by-side in the axial direction, and an image-conveying printing group cylinder (14, 04) of the second

first printing press (01) has a longitudinal cutting arrangement and a turning arrangement for partial-width web in the superstructure.

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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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JONES, TULLAR & COOPER, P.C.
P.O. BOX 2266 EADS STATION
ARLINGTON VA 22202

In re Application of
ECKERT et al.
Application No.: 11/922,906
Filed: 27 December 2007
Attorney Docket No.: W1.2701 PCT-US
For: PRINTING MACHINE SYSTEM

: DECISION ON REQUEST TO
: PARTICIPATE IN THE PCT PATENT
: PROSECUTION HIGHWAY PILOT
: PROGRAM AND PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(d)

This is a decision on the request to participate in the PCT Patent Prosecution Highway (PCT-PPH) pilot program and the petition under 37 CFR 1.102(a), filed 12 October 2010, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

A grantable request to participate in the PCT-PPH pilot program and petition to make special require:

(1) The U.S. application must disclose an eligible relationship to one or more PCT applications where the ISA or IPEA are the JPO, EPO, KIPO, or USPTO;

(2) At least one claim in the PCT application has novelty, inventive step, and industrial applicability and must be free of any observations in Box VIII in the latest work product in the international stage or applicant must identify and explain why the claim(s) is/are not subject to the observation in Box VIII;

(3) Applicant must submit a copy of the claim(s) from the PCT application(s) that have novelty, inventive step, and industrial applicability along with an English translation thereof and a statement that the English translation is accurate, if the claims are not in the English language;

(4) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the claim(s) that have novelty, inventive step, and industrial applicability in the PCT application(s);

(5) Examination of the U.S. application has not begun;

(6) Applicant must submit a copy of the latest international work product from the PCT application indicating that the claim(s) have novelty, inventive step, and industrial applicability along with an English translation thereof and a statement that the English translation is accurate

if the latest international work product is not in the English language;

(7) Applicant must submit an IDS listing the documents cited by the PCT examiner in the international work product along with copies of documents except U.S. patents or U.S. patent application publications.

The request to participate in the PCT-PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Lee W. Young at 571-272-4549.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

This application will be forwarded to the examiner for action on the merits commensurate with this decision once this application's formality reviews have been completed.

Lee W. Young
TQAS Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of :
EMAD NIMER ET AL. :
Application No. 11/922,969 : DECISION ON PETITION
Filed: December 27, 2007 :
Attorney Docket No. **42933** :

This is a decision on the petition, filed July 26, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action of December 30, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 9, 2010.

Petitioner contends that the Notice of Abandonment was mailed in error since a timely reply (Amendment) was received by the office on June 30, 2010, with a request for three (3) month extension of time. 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 30, 2010. 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 3766 for appropriate action in the normal course of business on the reply received June 30, 2010.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/922,969	12/27/2007	Emad Nimer	42933	1370

7590 07/28/2011

MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON, VA 22215

EXAMINER	
PATEL, NATASHA	

ART UNIT	PAPER NUMBER
3766	

MAIL DATE	DELIVERY MODE
07/28/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

July 27, 2011

MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

In re Application of	:	
Emad Nimer et al.	:	**DECISION ON PETITION**
Application No.11922969	:	
Filed: 12/27/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **42933**	:	***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 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 contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/923,079	10/24/2007	Luke Tolley	121219	8976

7590 03/16/2011

POLSINELLI SHUGHART PC
700 W. 47TH STREET
SUITE 1000
KANSAS CITY, MO 64112-1802

EXAMINER	
DIETERLE, JENNIFER M	

ART UNIT	PAPER NUMBER
1759	

NOTIFICATION DATE	DELIVERY MODE
03/16/2011	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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March 14, 2011

POLSINELLI SHUGHART PC
700 W. 47TH STREET
SUITE 1000
KANSAS CITY MO 64112-1802

In re Application of	:	
Luke Tolley, et al	:	**DECISION ON PETITION**
Application No. 11923079	:	
Filed: 10/24/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **121219**	:	***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) February 7, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/30/2011

TO SPE OF : ART UNIT 2618 Maung Nay (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/423161 Patent No.: 7929937

CofC mailroom date: 6/22/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

Certificates of Correction Branch

571-272-8680 _____

Thank You For Your Assistance

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

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

Comments: No New matter. The scope of the claim stays the same.

DUC M. NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

2618
Art Unit

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DIEHL SERVILLA LLC
33 WOOD AVE SOUTH
SECOND FLOOR, SUITE 210
ISELIN, NJ 08830

MAILED

JAN 25 2011

OFFICE OF PETITIONS

In re Application of

Eugene P. Dibella
Application No. 11/923,250
Filed: October 24, 2007
Attorney Docket No. AND0006-01CT

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 20, 2008 and resubmitted December 10, 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 Karen M. Whitney on behalf of all attorneys of record who are associated with customer No. 48394. All attorneys/agents associated with the Customer Number 48394 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: ANDEROL, INC.
C/O CHEMTURA CORPORATION
199 BENSON ROAD
MIDDLEBURY, CT 06749

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
11/923,250	10/24/2007	Eugene P. DiBella	AND0006-01CT

CONFIRMATION NO. 9277

POWER OF ATTORNEY NOTICE

48394
DIEHL SERVILLA LLC
33 WOOD AVE SOUTH
SECOND FLOOR, SUITE 210
ISELIN, NJ 08830

Date Mailed: 01/18/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/10/2010.

- 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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Levenfeld Pearlstein, LLC (ILLINOIS TOOL WORKS)
2 North LaSalle Street
Suite 1300
Chicago IL 60602

MAILED

AUG 10 2010

OFFICE OF PETITIONS

In re Application of :
Timothy B.PEARSON et al. :
Application No. 11/923,300 : ON PETITION
Filed: October 24, 2007 :
Attorney Docket No. 20395 (35371-67404) :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed January 29, 2010, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on April 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 corrected drawings; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received. Accordingly, the corrected drawing is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

The application file is being referred to the Office of Data Management.

David Bucci
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE WI 53202-4497

MAILED
AUG 23 2011
OFFICE OF PETITIONS

In re Patent No. 8,000,769 :
Issued: 08/16/2011 :
Application No. 11/923,369 : NOTICE
Filed: 10/24/2007 :
Attorney Docket No. 960296.00453 :
(P07150US)

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 3, 2011.

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

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

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

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

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

Decision Date March 30, 2012

In re Application of Laura Swarts

Application No. 11923371

Filed: 24-Oct-2007

Attorney Docket No. 283-391

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), March 30, 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	11923371
Filing Date	24-Oct-2007
First Named Inventor	Laura Swarts
Attorney Docket Number	283-391
Title	CONVEX PILLOW CONFIGURATION

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	/Clark A. Puntigam/
Name	Clark A. Puntigam
Registration Number	25763

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HALLIBURTON ENERGY SERVICES
P.O. BOX 819052
DALLAS, TX 75381-9052

MAILED
AUG 25 2011
OFFICE OF PETITIONS

In re Application of :
Brock W. Watson :
Application No.: 11/923,374 : ON PETITION
Filed: October 24, 2007 :
Attorney Docket No.: 2007-IP-001879 U1 US :

This is a decision on the petition, filed August 24, 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 August 23, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 3676 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902
MINNEAPOLIS MN 55402-0902

MAILED

JUN 14 2011

OFFICE OF PETITIONS

In re Application of :
Ted Nesse et al. :
Application No. 11/923,385 : DECISION ON PETITION
Filed: October 24, 2007 :
Attorney Docket No. **20355.0012US01** :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 14, 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 15, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) an adequate statement of unintentional delay. Accordingly, the response to the non-final office action of September 14, 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 March 15, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The Applicant's request for a change to large entity status has been approved.

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

This application is being referred to Technology Center AU 2116 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
P.O. Box 1450
Alexandria, VA 22313-1450
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Fish & Richardson PC
P.O.Box 1022
Minneapolis MN 55440

MAILED
DEC 23 2011
OFFICE OF PETITIONS

In re Patent No. 8,041,730	:	
UPSTILL et al.	:	DECISION ON REQUEST FOR
Issue Date: October 18, 2011	:	RECONSIDERATION OF
Application No. 11/923,424	:	PATENT TERM ADJUSTMENT
Filed: October 24, 2007	:	
Attorney Docket No. 16113-1773001	:	

This is a decision on the petition filed on Monday, December 19, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred three (603) days.

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

BACKGROUND

On October 18, 2011, the above-identified application matured into U.S. Patent No. 8,041,730 with a revised patent term adjustment of 484 days. On Monday, December 19, 2011, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 603. Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application."

Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on June 21, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 120-day period from June 21, 2011 (the mailing date of the Notice of Allowance) until October 18, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 120 days and be increased from 0 to 120 days. Patentee concludes that the correct patent term adjustment is 603 days (the sum of 484 days of "A delay" and 120 days of "B delay" minus 1 days of overlap between "A delay" and "B delay" - 0 days of applicant delay).

RELEVANT STATUTE AND REGULATIONS

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

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
>
> (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
>
> (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

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

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the

Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

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

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

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

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 0 days based on the application having been filed under 35 U.S.C. 111(a) on October 24, 2007, and the patent not having issued as of the day after the three year date, October 25, 2010, and a request for continued examination under 35 U.S.C. 132(b) having been filed on October 20, 2010. In other words, the 120-day period beginning on the date of mailing of the Notice of Allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. Thus, with respect to calculating the "B delay", where applicant has filed a request for continued examination the

[1] Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

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

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(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.

excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

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

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

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

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under

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

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp. 2d 138 (D.D.C. 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the

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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.

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

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

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

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

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

to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

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

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

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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.

does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on October 20, 2010, and the patent issued by virtue of that request on October 18, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on October 20, 2010, and ending on October 18, 2011, is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 484 days indicated on the patent is correct.

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

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OFFICE OF PETITIONS

In re Patent No. 8,041,730	:	
BAYARDO et al.	:	DECISION FOR REQUEST
Issue Date: October 18, 2011	:	FOR RECONSIDERATION
Application No. 11/923,424	:	OF PATENT TERM
Filed: October 24, 2007	:	ADJUSTMENT
Attorney Docket No. 16113-1773001	:	

This is a decision on the "RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT TO ISSUE CERTIFICATE OF CORRECTION" filed February 23, 2012. Patentees request that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred three (603) days.

The request for reconsideration is granted to the extent that the determination has been reconsidered; however, the request for reconsideration of patent term adjustment is **DENIED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. 154(b) of 484 days. This decision may be viewed as a final agency action within the meaning of 5 U.S.C. 704 and for purposes of seeking judicial review. See MPEP 1002.02.

BACKGROUND

On October 18, 2011, the above-identified application matured into U.S. Patent No. 8,041,730, with a revised patent term adjustment of 448 days. This revised determination included zero (0) days of patent term adjustment pursuant to 37 CFR 1.702(b).

On December 19, 2011, patentees filed a timely petition under 37 CFR 1.705(d) (with required fee) 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 603 days.

On December 23, 2011, the Office mailed a DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION, dismissing the request for reconsideration.

On February 23, 2012, patentees filed the present request for reconsideration within two months of the mail date of the decision on December 23, 2011. Patentees again dispute the calculation of the "B delay" period of the patent term adjustment. Specifically, patentees explain:

> Patentees submit that B Delay accumulated for a total of 359 days, beginning on October 25, 2010 (the day after the date that is three years after the date on which the application was filed), and ending October 18, 2011 (the date the patent was issued). The Office has excluded from B Delay the number of days corresponding to the period beginning on October 20, 2010 (the date on which a Request for Continued Examination was filed) and ending on October 18, 2011 (the date the patent was issued). However, this entire period should not be excluded from B Delay because it does not correspond in its entirety to continued examination. The Notice of Allowance Action mailed on June 21, 2011, closed examination of the application on that date. Section 154(b)(1)(B)(i) of Title 35 excludes from B Delay 'time consumed by continued examination of the application.' The statute does not provide for exclusion from B Delay of time from the mailing of a Notice of Allowance until issuance (a period during which continued examination did not occur).

"Response to Decision on Request for Reconsideration of Patent Term Adjustment to Issue Certificate of Correction" filed February 23, 2012, pp. 1-2.

STATUTE AND REGULATION

35 U.S.C. 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[1] (AIPA) provides that:

> ADJUSTMENT OF PATENT TERM. –
>
> (1) PATENT TERM GUARANTEES. –
>
> (A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to –
>
> (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after –
>
> (I) the date on which an application was filed under section 111(a) of this title; or
>
> (II) the date on which an international application fulfilled the requirements of section 371 of this title;
>
> (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;
>
> (iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or
>
> (iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.
>
> (B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION

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[1] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

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

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(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.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to –

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(2) LIMITATIONS. –

(A) IN GENERAL. – To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

The implementing regulation, 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. 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:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

(2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

(3) Act on an application not later than four months after the date of a decision by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or 135 or a decision by a Federal court under 35 U.S.C. 141, 145, or 146 where at least one allowable claim remains in the application; or

(4) Issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

(b) Failure to issue a patent within three years of the actual filing date of the application. 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[2]:

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[2] (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.

In pertinent part, 37 CFR 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(2) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(3) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(4) The number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 41.37 of this title was filed and ending on the date of mailing of any of an examiner's answer under § 41.39 of this title, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(5) The number of days, if any, in the period beginning on the day after the date that is four months after the date of a final decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145 or 146 where at least one allowable claim remains in the application and ending on the date of mailing of either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first; and

(6) The number of days, if any, in the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied and ending on the date a patent was issued.

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods[3]:

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[3] (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;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

37 CFR 1.703(f) provides that:

> The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

OPINION

Patentees' argument has again been considered, but is not persuasive. The Office's calculation of zero (0) days of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[4]. With respect to calculating the "B

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[4] 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.

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. 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)[5]. 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

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[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 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.

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[6] permits the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

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

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[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.

In this instance, a request for continued examination was filed on October 20, 2010, and the patent issued by virtue of that request on October 18, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on October 20, 2010, and ending on October 18, 2011, is not included in calculating Office delay. In view thereof, it is concluded that the revised patent term adjustment of 484 days is correct.

CONCLUSION

The request for reconsideration of the revised patent term adjustment is denied.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e). As this request pertains only to the over 3-year delay issue previously raised in the application for patent term adjustment, no additional fees are required.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, (571) 272-3211.

Anthony Knight
Director
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120224

DATE : February 27, 2012

TO SPE OF : ART UNIT 3652

SUBJECT : Request for Certificate of Correction on Patent No.: 7,918,636

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:

/Saul J. Rodriguez/
Supervisory Patent Examiner, Art Unit 3652

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

MAILED
JAN 06 2012
OFFICE OF PETITIONS

In re Application of	:	
Luh et al.	:	
Patent Number: 8,032,388	:	DECISION ON
Issue Date: 10/04/2011	:	APPLICATION FOR
Application No. 11/923462	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 10/24/2007	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
07844-924001	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 5, 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 nine hundred eighty-eight (988) 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 nine hundred eighty-eight (988) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred eighty-eight (988) days.**

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,032,388 B1

DATED : **October 4, 2011**

INVENTOR(S) : Luh 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 986 days.

Delete the phrase "by 986 days" and insert – by 988 days--

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Crockett & Crockett, P.C.
26020 ACERO
Suite 200
Mission Viejo, CA 92691

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of :
Thomas L. Grey et al. :
Application No. 11/923,483 : DECISION ON PETITION
Filed: October 24, 2007 : TO WITHDRAW
Attorney Docket No. 213/023 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 20, 2011.

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

A review of the file record indicates that the power of attorney to Crockett & Crockett, P.C., has been revoked by the assignee of the patent application on February 1, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Kilpatrick Townsend & Stockton, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

MAILED

NOV 18 2010

OFFICE OF PETITIONS

In re Application of :
Kuhlmann et al. :
Application No. 11/923,498 :
Filed: October 24, 2007 :
Attorney Docket No. 1361050-2007 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 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 Michael Bergman, on behalf of the practitioners of record associated with Customer No 20999.

Customer No 20999 has been withdrawn as from record. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed August 31, 2010, that requires a reply from the applicant.

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: WIRELESS SERVICES CORPORATION C/O SINGLE POINT
710 2ND AVENUE, SUITE 400
SEATTLE, WA 98104

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
11/923,498	10/24/2007	John H. Kuhlmann	1361050-2007

CONFIRMATION NO. 9677

20999
FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

POWER OF ATTORNEY NOTICE

Date Mailed: 11/17/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/21/2010.

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

/atkelley/

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

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MAILED
APR 06 2011
OFFICE OF PETITIONS

Kirk William Hermann, Attorney
510 North Villa Court, #103
Palm Springs CA 92262

In re Application of	:	
SANGUINETTI, Thomas V.	:	
Application No. 11/923,538	:	DECISION ON PETITION
Filed: October 24, 2007	:	TO WITHDRAW
Attorney Docket No. 1500-1001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 16, 2011.

The request is **NOT APPROVED**.

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

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

The request cannot be approved because Dave Sanguinetti is not listed as the inventor.

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **DAVE SANGUINETTI**
10309 PACIFIC CENTER COURT
SAN DIEGO CA 92121

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	11/923,599	WILLIAMS, JOHN G.K.	
	Examiner	Art Unit	
	FRANK LU	1634	

ISSUE CLASSIFICATION

ORIGINAL			CROSS REFERENCE(S)							
CLASS	SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)							
435	91.2	435	6.1	6.11	6.12	91.1	287.2			
INTERNATIONAL CLASSIFICATION										
C 12 P	19/34									
C 12 Q	1/68									
C 12 M	1/34									
C 07 H	21/02									
C 07 H	21/04									

(Assistant Examiner) (Date)	/Frank W Lu/ 3/21/2012	Total Claims Allowed: 20	
(Legal Instruments Examiner) (Date)	(Primary Examiner) (Date)	O.G. Print Claim(s): 1	O.G. Print Fig.: None

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☒ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
	1	1	31		61		91		121		151		181
	2	2	32		62		92		122		152		182
	3		~~33~~		63		93		123		153		183
	4		~~34~~		64		94		124		154		184
	5	3	35		65		95		125		155		185
	6	4	36		66		96		126		156		186
	7	6	37		67		97		127		157		187
	8	16	38		68		98		128		158		188
	9	17	39		69		99		129		159		189
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	30		60		90		120		150		180		210

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AUG 06 2010

OFFICE OF PETITIONS

In re Application of :
Man Jit SINGH, et *al.* :
Application No. 11/923,609 : DECISION DISMISSING PETITION
Filed: October 24, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **CMPT-0005-P05** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 4, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until August 4, 2010. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STRATEGIC PATENTS P.C.
C/O PORTFOLIOIP
P.O. BOX 52050
MINNEAPOLIS MN 55402

MAILED

AUG 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Man Jit Singh, et al.	:	
Application No. 11/923,617	:	DECISION GRANTING PETITION
Filed: October 24, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CMPT-0005-P11	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, August 4, 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 April 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 2455 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
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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NOV 18 2010

OFFICE OF PETITIONS

AFFYMETRIX, INC
ATTN: CHIEF IP COUNSEL, LEGAL DEPT.
3420 CENTRAL EXPRESSWAY
SANTA CLARA, CA 95051

In re Application of	:	
Shivani Nautiyal, et al.	:	
Application No. 11/923,649	:	DECISION ON PETITION
Filed: October 24, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: 3793.1	:	AND UNDER 37 CFR 1.78(a)(6)

This is a decision in response to the petition, filed September 9, 2010, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Ms. Sandra E. Wells appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts.

The petition is **DISMISSED**

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

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

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1). In this regard, 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).

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

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

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

[1] 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) 272-3204.

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

AFFYMETRIX, INC
ATTN: CHIEF IP COUNSEL, LEGAL DEPT.
3420 CENTRAL EXPRESSWAY
SANTA CLARA, CA 95051

MAILED

MAR 25 2011

OFFICE OF PETITIONS

In re Application of :
Shivani Nautiyal, et al. :
Application No. 11/923,649 :
Filed: October 24, 2007 :
Attorney Docket No.: 3793.1 :

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

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed January 27, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Applicant should note that no further fee was required on the renewed petition; therefore, the $1,410 paid with the present petition is subject to refund. Any request for refund must include a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

This application is being forwarded to Technology Center Art Unit 1637 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
11/923,649	10/24/2007	1637	1830	3793.1	25	5

CONFIRMATION NO. 9908

CORRECTED FILING RECEIPT

22886
AFFYMETRIX, INC
ATTN: CHIEF IP COUNSEL, LEGAL DEPT.
3420 CENTRAL EXPRESSWAY
SANTA CLARA, CA 95051

Date Mailed: 03/16/2011

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

Applicant(s)

Shivani Nautiyal, Portola Valley, CA;
Malek Faham, Pacifica, CA;

Assignment For Published Patent Application

AFFYMETRIX, INC., Santa Clara, CA

Power of Attorney: The patent practitioners associated with Customer Number 22886

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/862,735 10/24/2006
and is a CIP of 11/739,654 04/24/2007 PAT 7,754,451
which is a CON of 10/300,311 11/19/2002 PAT 7,208,295 *
which claims benefit of 60/331,693 11/19/2001
(*)Data provided by applicant is not consistent with PTO records.

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

If Required, Foreign Filing License Granted: 11/07/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/923,649**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods of Analysis of Methylation

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

Doc Code: 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):
11/923,780	
First Named Inventor:	**Title of Invention:**
Nishimura	POLMER ELECTROLYTE FUEL CELL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Signature /Alan E. Schiavelli/	Date 6/16/11
Name (Print/Typed) Alan E. Schiavelli	Practitioner Registration Number 32,087

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

☐ *Total of _____ forms are submitted.

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

MAILED
JUN 21 2011
OFFICE OF PETITIONS

In re Application of :
Nishimura et al. :
Application No. 11/923,780 : DECISION ON PETITION
Filed: October 25, 2007 :
Attorney Docket No. 1021.48087X00 :

This is a decision on the request filed June 16, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on January 19, 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 1727 for re-mailing the Office action of January 19, 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

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.
11/923,976	10/25/2007	Eun-hyoung CHO	Q103481	1465

7590 10/04/2010

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER	
EDUN, MOHAMMAD N	

ART UNIT	PAPER NUMBER
2627	

NOTIFICATION DATE	DELIVERY MODE
10/04/2010	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

September 30, 2010

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of	:	
Eun-Hyoung Cho, et al	:	**DECISION ON PETITION**
Application No. 11923976	:	
Filed: 10/25/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **Q103481**	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) October 25, 2007.

The petition is **GRANTED**.

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

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

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

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

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

Kimberly Terrell, Manager
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Adli Law Group P.C.
633 West Fifth Street
Suite 6900
Los Angeles CA 90071

MAILED

OCT 06 2011

OFFICE OF PETITIONS

In re Patent No. 7,954,489 :
Issue Date: June 7, 2011 :
Application No. 11/923,979 : DECISION ON PETITION
Filed: October 25, 2007 :
Attorney Docket No. 1022.104 :

This is a decision on the petition under 37 CFR 1.182, filed September 28, 2011, requesting issuance of duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

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

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. Inquiries regarding the issuance of duplicate Letters Patent may be directed to the Ollie Person in the Office of Data Management at (703) 756-1555.

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

cc: Ollie Person, Randolph Square, 9th Floor, Room D30-A (Fax No. (571) 270-9764)
Kimberly Terrell (Fax No. (571) 270-9958)

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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SEP 2 7 2010

OFFICE OF PETITIONS

SCHNECK & SCHNECK
P.O. BOX 2-E
SAN JOSE CA 95109-0005

In re Application of	:	
Robert Klima, et al.	:	DECISION ON PETITION
Application No. 11/923,984	:	TO WITHDRAW
Filed: October 25, 2007	:	FROM RECORD
Attorney Docket No. ODM-011	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed August 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/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **ON DEMAND Microelectronics AG**
Donau-City Strasse 11; Ares Tower 10 Floor
Vienna 1220
Austria

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHNECK & SCHNECK
P.O. Box 2-E
San Jose, CA 95109-0005

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Robert Klima	:	
Application No. 11/923,984	:	DECISION ON PETITION
Filed: October 25, 2007	:	TO WITHDRAW
Attorney Docket No. ODM-011	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 12, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Thomas Schneck 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 Robert Klima at the address indicated below.

The application became abandoned for failure to timely respond to the Office action mailed March 17, 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: **Robert Klima**
Greutberggasse 30
Vienna A-1140
Austria

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
11/923,984	10/25/2007	Robert Klima	ODM-011

CONFIRMATION NO. 1476

3897
SCHNECK & SCHNECK
P.O. BOX 2-E
SAN JOSE, CA 95109-0005

POWER OF ATTORNEY NOTICE

OC000000044142390

Date Mailed: 10/22/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/12/2010.

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

/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

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.
11/924,055	10/25/2007	William C. Morgan	24684-044	1593

32137 7590 10/01/2010

PATENT DOCKET CLERK
COWAN, LIEBOWITZ & LATMAN, P.C.
1133 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

EXAMINER	
ZIEGLE, STEPHANIE M	
ART UNIT	**PAPER NUMBER**
3684	

MAIL DATE	DELIVERY MODE
10/01/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT DOCKET CLERK
COWAN, LIEBOWITZ & LATMAN, P.C.
1133 AVENUE OF THE AMERICAS
NEW YORK NY 10036

Applicant: Morgan et al.
Appl. No.: 11/924,055
Filing Date: October 25, 2007
Title: PROCESS OF AND SYSTEM FOR ADVANCING CREDIT FOR CASH COLLECTIONS
Attorney Docket No.: 24684-044
Pub. No.: US 2009/0006249 A1
Pub. Date: January 1, 2009

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on January 28, 2010, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office 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.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission and must include a copy of the application in compliance with the Office electronic filing system requirements. The applicant is directed to the following website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

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

Any questions or requests for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Tammy J. Koontz
Office of Data Management
United States Patent & Trademark Office

Adjustment date: 10/01/2010 KKING1
01/29/2010 INTEFSW 00001194 11924055
01 FC:1504 -300.00 OP

pln. Ref: 10/01/2010 KKING1 0016281800
#:033415 Name/Number:11924055
: 9204 $300.00 CR

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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TUROCY & WATSON, LLP
127 PUBLIC SQUARE
57TH FLOOR, KEY TOWER
CLEVELAND OH 44114

MAILED

SEP 13 2011

OFFICE OF PETITIONS

In re Application of	:	
Francis Kiss DEVIRAG et al.	:	
Application No. 11/924,145	:	DECISION ON PETITION
Filed: October 25, 2007	:	
Attorney Docket No. RSNRP109US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 10, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed February 11, 2011, which set a period for reply of three (3) months. Accordingly, this application became abandoned on May 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 the corrected formal drawings; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the corrected formal drawings are accepted as being unintentionally delayed.

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

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

OK TO ENTER: /C.M./

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,862,506

APPLICATION NO.: 11/924,183

ISSUE DATE : January 4, 2011

INVENTOR(S) : Stephen J. Brown

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

Column 17, claim 9, line 43, after "with" insert "a".

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

Christopher P. Maiorana, P.C.
24840 Harper Avenue, Suite 100
St. Clair Shores, MI 48080

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110218

DATE : February 15, 2011

TO SPE OF : ART UNIT 3735

SUBJECT : Request for Certificate of Correction on Patent No.: 7,862,506

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:

/Charles A. Marmor, II/
Supervisory Patent Examiner, Art Unit 3735

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SYNTRIX BIOSYSTEMS, INC.
215 CLAY STREET NW
SUITE B-5
AUBURN W, WA 98001

MAILED

OCT 03 2011

OFFICE OF PETITIONS

In re Application of :
John Zebala :
Application No. 11/924,250 : ON PETITION
Filed: August 19, 2008 :
Attorney Docket No. 7.012.2 :

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 for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 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)(II)(A)(2). A one (1) 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 January 28, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $465, and the submission required by 37 CFR 1.114; (2) the petition fee of $930; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1629 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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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED
JAN 17 2012
OFFICE OF PETITIONS

In re Application of
Stergiou et al.
Application No. 11/924,291
Filed: October 25, 2007
Attorney Docket No. 1956.1003

DECISION ON PETITION

This is a decision on the petition, filed December 27, 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 under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to reply to the Office action mailed April 13, 2011, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 26, 2011.

Petitioner asserts that the Office action dated April 13, 2011 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. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

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 master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

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 art unit 2825 for re-mailing of the non-final Office action of April 13, 2011. The period for reply will run from the mailing date of the non-final Office action.

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

Charlema Grant
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FutureWei Technologies, Inc.
5340 Legacy Drive
Suite 175
Plano TX 75024

MAILED

NOV 02 2011

OFFICE OF PETITIONS

In re Patent No. 7,675,845 :
Issue Date: March 9, 2010 :
Application No. 11/924,307 : DECISION ON PETITION
Filed: October 25, 2007 :
Attorney Docket No. **30952/42897** :

This is a decision on the petition under 37 CFR 1.182, filed November 10, 2 010, requesting issuance of duplicate Letters of Patent for the above-identified patent.

The petition is **granted**.

The file record discloses that the instant application matured into U.S. Patent No. 7,675,845 on March 9, 2010. Petitioner requests duplicate Letters of Patent be issued as the original Letter of Patent was lost.

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

Any questions concerning this decision may be directed to the undersigned at (571)272-3222. Any questions concerning issuance of the duplicate Letter of Patent should be directed to the Office of Data Management.

The address cited on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address cited on the petition. All future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Cc'd:
Kimberly Terrell—Office of Data Management FAX: 571-270-9958

Richard Mysliwiec
Huawei Technologies USA
1700 Alma Drive, Suite 500
Plano, TX 75075

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Scott B. Dunbar
Second Sight Medical Products, Inc.
Building 3
12744 San Fernando Road
Sylmar CA 91342

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Application of :
Laude et al. :
Application No. 11/924,363 : DECISION ON PETITION
Filed: October 25, 2007 :
Attorney Docket No. S362-DIV1 :

This is in response to the "PETITION UNDER 37 CFR §1.47(a)" filed November 2, 2011, which is properly treated as a petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.67 that all of the actual inventors execute the supplemental declaration[1].

The $400 petition fee is being charged to Deposit Account No. 50-0922, as authorized.

The petition is **DISMISSED**.

The above-identified application was filed on October 25, 2007, with a copy of the executed declaration from parent application No. 11/599,516. By final Office action mailed June 9, 2011, the examiner required a supplemental declaration to remove an improper reference to application number 11/270,907.

This petition must be dismissed because the supplemental declaration is not acceptable. Applicants have submitted the

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather the remedy for treating an inventor's refusal to sign a supplemental declaration is waiver of 37 CFR 1.67. See MPEP 603. However, the standard of 37 CFR 1.47 is applicable to consideration of whether waiver is appropriate.

This petition must be dismissed because the supplemental declaration is not acceptable. Applicants have submitted the original declaration supplied from the parent application, with the reference deleted and re-executed by the available inventors. A declaration from a prior application may be supplied pursuant to 37 CFR 1.6(d) to submit the original declaration required in a continuing application. However, an applicant cannot modify the declaration filed in the prior application and submit it in the continuing application. As stated by the examiner, a new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required.

Further, the requirements to waive 37 CFR 1.67 must be met with respect to the new oath or declaration. In other words, on renewed petition, applicants must make showing that inventor Laude is unavailable to sign the new declaration based on presentation of the new declaration to inventor Laude.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Browdy and Neimark, PLLC
1625 K Street, N.W.
Suite 1100
Washington DC 20006

MAILED

JAN 24 2011

OFFICE OF PETITIONS

In re Patent No. 7,525,634 :
Issue Date: April 28, 2009 :
Application No. 11/924,365 : NOTICE
Filed: October 25, 2007 :
Attorney Docket No. DISHON=1B :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 10, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

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

This file is being forwarded to Files Repository.

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

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

SEP 30 2011

OFFICE OF PETITIONS

In re Patent No. 7,989,496	:	DECISION ON REQUEST
Hartwig et al.	:	FOR
Issue date: August 2, 2011	:	RECONSIDERATION OF
Application No. 11/924,371	:	PATENT TERM ADJUSTMENT
Filed: October 25, 2007	:	
Attorney Docket No.041457-0853	:	

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed September 27, 2011.

The request for reconsideration of the patent term adjustment indicated on the patent is **DISMISSED**.

On August 2, 2011, the application matured into U.S. Patent No. 7.989,496, with a revised patent term adjustment of 293 days. On September 27, 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 439 days. Patentee disputes the 146 days not accorded, corresponding to the number of days from the filing of a Notice of Appeal on November 10, 2010, to the day the Notice of Allowance was issued on April 4, 2011.

Patentee's argument regarding whether there was "appellate review" is acknowledged, but is not persuasive. The time period from the filing of a notice of appeal to a notice of allowability or notice of allowance is properly excluded from

the period of B delay under the Office's current interpretation of the statute.

However, as acknowledged by patentee, 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, Patentee is 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 given under 37 CFR 1.136(a).

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

MAILED

SEP 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Darjania et al.	:	DECISION ON PETITION
Application No. 11/924,505	:	TO WITHDRAW
Filed: October 25, 2007	:	FROM RECORD
Attorney Docket No. CYLE-035/01US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 3, 2010.

The request is **DISMISSED** as involving a moot issue.

A review of the file record indicates that the power of attorney to the attorneys/agents associated with Customer Number 25225 was revoked by the assignee of the patent application on August 6, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: COOLEY LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON DC 20001

UNITED STATES PATENT AND TRADEMARK OFFICE

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PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

MAILED

JAN 27 2012

OFFICE OF PETITIONS

In re Application of :
Mitts, et al. :
Application No. 11/924,586 : DECISION ON PETITIONS
Filed: October 25, 2007 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 126595.00511 :

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed December 20, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

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

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

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3205. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1654 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
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
11/924,586	10/25/2007	1654	1072	126595.00511	40	3

CONFIRMATION NO. 1498

CORRECTED FILING RECEIPT

21269
PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH, PA 15219

Date Mailed: 01/27/2012

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

Applicant(s)

Thomas Mitts, Visalia, CA;
Felipe Jimenez, Seal Beach, CA;
Aleksander Hinek, Toronto, CANADA;

Power of Attorney: The patent practitioners associated with Customer Number 21269

Domestic Priority data as claimed by applicant

This application is a CIP of 11/394,354 03/29/2006 PAT 7566693
which claims benefit of 60/665,966 03/29/2005
and claims benefit of 60/758,821 01/13/2006
and claims benefit of 60/671,557 04/15/2005
and claims benefit of 60/681,600 05/17/2005
and claims benefit of 60/737,586 11/17/2005

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

If Required, Foreign Filing License Granted: 08/26/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/924,586**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

ELASTIN PROTECTIVE POLYPHENOLICS AND METHODS OF USING THE SAME

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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LAW OFFICES OF JERRY A. SCHULMAN
1S376 SUMMIT AVENUE
COURT C
OAKBROOK TERRACE, IL 60181

MAILED

NOV 17 2010

OFFICE OF PETITIONS

In re Application of :
Takayuki Akahoshi :
Application No. 11/924,591 : ON PETITION
Filed: October 25, 2007 :
Attorney Docket No.: 10007-2-119 :

This is a decision in response to the petition, filed September 22, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed April 24, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on April 25, 2009. A Notice of Abandonment was subsequently mailed on December 7, 2009. On September 22, 2010, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3767 for appropriate action by the Examiner in the normal course of business on the reply received September 22, 2010.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/924,615	10/26/2007	Chiao-Shun Chuang	24835-US-PA	1549

31561 7590 03/15/2011
JIANQ CHYUN INTELLECTUAL PROPERTY OFFICE
7 FLOOR-1, NO. 100
ROOSEVELT ROAD, SECTION 2
TAIPEI, 100
TAIWAN

EXAMINER	
MIYOSHI, JESSE Y	
ART UNIT	PAPER NUMBER
2811	

NOTIFICATION DATE	DELIVERY MODE
03/15/2011	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):

USA@JCIPGROUP.COM.TW
Belinda@JCIPGROUP.COM.TW

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

In re Application of Chiao-Shun Chuang et al.	:	
Appl. No.: 11/924,615	:	DECISION ON PETITION
Filed: October 26, 2007	:	UNDER 37 C.F.R. §1.59
Attorney Docket No.: 24835-US-PA	:	

This is a decision on the petition under 37 C.F.R. §1.59(b), filed December 7, 2010, to expunge proprietary information from the above-identified application.

The petition is DENIED.

Petitioner requests that Exhibit A submitted with a declaration under 37 C.F.R. §1.131 filed October 15, 2010, be expunged from the record because "Exhibit A contains proprietary material not open to the public and petitioner would like to avoid information in Exhibit A from being open to the public."

A review of the petition reveals that the information asserted as being proprietary material is information relied upon as evidence to support a declaration filed under 37 CFR 1.131 to disqualify a reference applied against the claims as prior art under 35 USC 102(e). Since the information in Exhibit A is relied on to establish prior invention, this information is material to patentability of the claims of the instant application. As such, the Exhibit will not be expunged from the file record. Furthermore, pursuant to MPEP § 724.03, "If any trade secret, proprietary, and/or protective order materials are submitted in amendments, arguments in favor of patentability, or affidavits under 37 CFR 1.131 or 1.132, they will be made of record in the file and will not be given any special status."

It is noted that Exhibits A, B and C, filed in support of a 37 CFR 1.131 affidavit, were all submitted under the provisions of M.P.E.P. §724.02.

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

Richard K. Seidel, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Patent No. : **8062847**
Ser. No. **11/924639**
Inventor(s) : **BROGLIE, KAREN E.**
Issued : **11/22/2011**
Title : **METHOD FOR IDENTIFYING MAIZE PLANTS WITH RCG1 GENE CONFERRING RESISTANCE TO COLLETOTRICHUM INFECTION**
Docket No. : **1999-2C**

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

PIONEER HI-BRED INTERNATIONAL, INC.
7250 N.W. 62ND AVENUE
P.O. BOX 552
JOHNSTON IA 50131-0552

OL

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Washington, D.C. 20231
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INTERNATIONAL, INC.
7250 N.W. 62ND AVENUE
P.O. BOX 552
JOHNSTON IA 50131-0552

MAILED
MAR 09 2012
OFFICE OF PETITIONS

In re Patent No. 8,062,847 :
Issue Date: 22 November, 2011 :
Application No. 11/924,639 : ON PETITION
Filed: 26 October, 2007 :
Attorney Docket No. 1999-2C :

This is a decision on the petition filed on 16 December, 2011, to issue a certificate of correction and considered to waive the rules pursuant to 37 C.F.R. §1.183 and accept the correction of the assignee on the front page of the above-identified patent pursuant to 37 C.F.R. §1.323 and §3.81(a).

NOTE:

The requirements of the instant matter are set forth in the Commentary at MPEP §307 and §1480-§1485—Petitioner must provide the statement and showings in addition to the proper fees, the showing that the assignment pursuant to which Petitioner seeks a change, was recorded with the Office before issue.

Petitioner might find it beneficial to move stepwise through the requirements.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction.

The regulations at 37 C.F.R. §3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. The regulations at 37 C.F.R. §3.81 (b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but prior to issuance of a patent.

The guidance in the Commentary at MPEP §307 provides:

307 Issue to Assignee [R-3]

35 U.S.C. §152. Issue of patent to assignee.

Patents may be granted to the assignee of the inventor of record in the Patent and Trademark Office, upon the application made and the specification sworn to by the inventor, except as otherwise provided in this title.

**>

37 C.F.R. §3.81. Issue of patent to assignee.

(a)*With payment of the issue fee*: An application may issue in the name of the assignee consistent with the application's assignment where a request for such issuance is submitted with payment of the issue fee, provided the assignment has been previously recorded in the Office. If the assignment has not been previously recorded, the request must state that the document has been filed for recordation as set forth in §3.11.

(b)*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 § 3.11before 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.

(c)*Partial assignees.* (1) If one or more assignee, together with one or more inventor, holds the entire right, title, and interest in the application, the patent may issue in the names of the assignee and the inventor.

(2)If multiple assignees hold the entire right, title, and interest to the exclusion of all the inventors, the patent may issue in the names of the multiple assignees.<

Normally, for a patent to issue to an assignee, a request for issuance of the application in the name* of the assignee* must be filed in the United States Patent and Trademark Office (Office) at a date not later than the day on which the issue fee is paid. **>Such a request must indicate that the assignment has been previously recorded in the Office. If the assignment has not been previously recorded in the Office, the request must state that the document has been filed for recordation as set forth in 37 C.F.R. §3.11. See 37 C.F.R. §3.81(a).

If a request for issuance to an assignee pursuant to 37 C.F.R. §3.81(b) is submitted after the day on which the issue fee is paid, the request under 37 C.F.R. §3.81(b) must include a request for a certificate of correction under 37 C.F.R. §1.323 (accompanied by the fee set forth in 37 C.F.R. §1.20(a)) and the processing fee set forth in 37 C.F.R. §1.17(i). The request under 37 C.F.R. §3.81(b) must state that the assignment was submitted for

recordation as set forth in 37 C.F.R. §3.11 before issuance of the patent. The Office will issue a certificate of correction to reflect that the patent issued to the assignee provided the requirements of 37 C.F.R. §3.81(b) and 37 C.F.R. §1.323 are complied with.<

Only the first appearing name of an assignee will be printed on the patent where multiple names for the same party are identified on the **>Fee(s)< Transmittal form, PTOL-85B. Such multiple names may occur when both a legal name and an "also known as" or "doing business as" name is also included. This printing practice will not, however, affect the existing practice of recording assignments with the Office in the Assignment Division. The assignee entry on form PTOL-85B should still be completed to indicate the assignment data as recorded in the Office. For example, the assignment filed in the Office and, therefore, the PTOL-85B assignee entry might read "Smith Company doing business as (d.b.a.) Jones Company." The assignee entry on the printed patent will read "Smith Company."

Irrespective of whether the assignee participates in the prosecution of the application, the patent issues to the assignee if so indicated on the **>Fee(s)< Transmittal form PTOL-85B. Unless an assignee's name and address are identified Transmittal form PTOL-the applicant. Assignment will be based solely on >Assignment information updated after a patent is reflective of the assignment subsequent to the issuance assignment information an assignment search on and by inspecting the documents.<

A request for a certificate 37 CFR 1.323 (see MPEP from incomplete or erroneous furnished >, or a missing PTOL-85B will not be under 37 CFR 3.81(b) assignment was submitted in 37 CFR 3.11 before request under 37 CFR the Office of Petitions

(A)the *>processing< 1.17(*>i<);
(B)a request **>for the name of the assignee, corrected to state the name
(C)a statement that submitted for recordation 3.11before the issuance of the
(D)a **>request under 37 CFR 1.323 accompanied in 37 CFR 1.20(a).<

The regulations at 37 C.F.R. §3.81(b) provide:

> *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.

On any renewed petition, Petitioner must satisfy all showing and fee requirements.

Out of an abundance of caution, Petitioners always are reminded that 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.[1]

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

CONCLUSION

Accordingly, the petition under 37 C.F.R. 37 C.F.R. §1.183, §1.323 and §3.81 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

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of Petitioners 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
Washington, D.C. 20231
www.uspto.gov

PIONEER HI-BRED
INTERNATIONAL, INC.
7250 N.W. 62ND AVENUE
P.O. BOX 552
JOHNSTON IA 50131-0552

MAILED
MAR 20 2012
OFFICE OF PETITIONS

In re Patent No. 8,062,847 :
Issue Date: 22 November, 2011 :
Application No. 11/924,639 : ON PETITION
Filed: 26 October, 2007 :
Attorney Docket No. 1999-2C :

This is a decision on the petition filed on 15 March, 2012, to issue a certificate of correction and considered to waive the rules pursuant to 37 C.F.R. §1.183 and accept the correction of the assignee on the front page of the above-identified patent pursuant to 37 C.F.R. §1.323 and §3.81(a).

NOTE:

The Office thanks Petitioner for placing on the renewed petition both the patent number with issue date and the application number with filing date. (This Office requirement works to prevent the unintended direction of petitions and payments to the patents of others when patent numbers are the only identifiers submitted and the numbers are set forth erroneously.)

Further, the Office notes that the instant matter is a continuation of Application No. 11/397,275 (the '275 application, the parent), now abandoned.

The requirements of the instant petition are set forth in the Commentary at MPEP §307 and §1480-§1485—Petitioner must provide the statement and showings in addition to the proper fees, the showing that the assignment pursuant to which Petitioner seeks a change, was recorded with the Office before issue.

The requirements include but are not limited to:

> If a request for issuance to an assignee pursuant to 37 C.F.R. §3.81(b) is submitted after the day on which the issue fee is paid, the request under 37 C.F.R. §3.81(b) must include a request for a certificate of correction under 37

C.F.R. §1.323 (accompanied by the fee set forth in 37 C.F.R. §1.20(a)) and the processing fee set forth in 37 C.F.R. §1.17(i).

The petition is **GRANTED**.

Petitioner requests issuance of a certificate of correction substituting the names of "**University of Delaware, Pioneer H-Bred International Inc., and E.I. Du Pont De Nemours and Company.**"

The regulations at 37 C.F.R. §3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. (See: the regulations The regulations at 37 C.F.R. §3.81(b) and the guidance in the Commentary at MPEP §307.)

Petitioner appears not to have submitted, but Office records reveal documents supporting/evidencing the assignment in question in the parent at Reel/Frame 018426/0441 on 24 October, 2006, and Reel/Frame 018536/0111 on 20 November, 2006. Those assignments indicate the assignees to be identified therein to be: **UNIVERSITY OF DELAWARE, PIONEER H-BRED INTERNATIONAL INC., AND E.I. DU PONT DE NEMOURS AND COMPANY.**

Thereafter the patent issued in the child, the instant matter, on 22 November, 2011, as indicated above. (*See*, generally in this regard: MPEP §307.)

Petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application. The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect assignment as set forth above.

Out of an abundance of caution, Petitioners always are reminded that 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.[1]

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

---

[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).

Accordingly, because the request complies with the provisions of 37 C.F.R. 3.81(b), it is appropriate for a certificate of correction to be processed.

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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HOOKER & HABIB, P.C.
100 CHESTNUT STREET
SUITE 304
HARRISBURG, PA 17101

MAILED

MAR 04 2011

OFFICE OF PETITIONS

In re Application of :
Silvia Bader :
Application No. 11/924,704 : ON PETITION
Filed: October 26, 2007 :
Attorney Docket No. 7-4220-A :

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

The petition is **DISMISSED**.

Petitioner requests that the present application be withdrawn from issue for consideration of a petition, filed March 2, 2011, to withdraw at previously filed terminal disclaimer under the provisions of 37 CFR 1.182.

37 CFR 1.313(a) states, in part:

> Applications may be withdrawn from issue for further action at the initiative of the Office or 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.

The petition fee of $130 has been paid; however, the petition does not set forth good and sufficient reasons as to why withdrawal of the application from issue is necessary. The mere submission of a petition does not make withdrawal of the application from issue necessary.

Since the petition under 37 CFR 1.182 is filed prior to the payment of the issue fee, a decision by the Office of Petitions will issue in due course.

The application is being referred to the Office of Data Management to await receipt of the response to the Notice of Allowance and Issue Fee Due mailed December 6, 2010.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HOOKER & HABIB, P.C.
100 CHESTNUT STREET
SUITE 304
HARRISBURG, PA 17101

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of :
Silvia Bader :
Application No. 11/924,704 : ON PETITION
Filed: October 26, 2007 :
Attorney Docket No.: 7-4220-A :

This is a decision on the petition, filed March 2, 2011, under 37 CFR 1.182 requesting the withdrawal of previously filed terminal disclaimer. The petition fee has been received.

The petition is **DISMISSED**.

Petitioner explains that, in view of subsequent action in the prosecution of the application, the Terminal Disclaimer filed on February 4, 2010 is not necessary. Specifically, petitioner argues that because all the allowed claims 1, 3-8, 9, and 10-16 are not subject to the terminal disclaimer requirement, the terminal disclaimer filed February 4, 2010 should be withdrawn.

Petitioner's argument is not persuasive. According to the examiner, the TD should not be withdrawn because further examination of the claims would be required. In addition, the examiner states that withdrawing the terminal disclaimer would mean that the obviousness-type double patenting rejection would have to be reinstated and the claims would no longer be allowable.

In view of the above, the request cannot be favorably considered.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SECOND SIGHT MEDICAL PRODUCTS, INC.
12744 SAN FERNANDO ROAD
BUILDING 3
SYLMAR CA 91342

MAILED
JAN 27 2012
OFFICE OF PETITIONS

In re Application of :
LAUDE et al. :
Application No. 11/924,752 : DECISION ON PETITION
Filed: October 26, 2007 :
Attorney Docket No. S366-DIV1 :

This is in response to the petition under 37 CFR 1.47(a), filed November 17, 2011, which is being treated as a petition under 37 CFR 1.183 seeking waiver of the requirement of 37 CFR 1.67 that all of the actual inventors execute the supplemental declaration.

Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Petitions under 37 CFR 1.47 are only applicable to an original oath or declaration and do not apply to the re-execution of another oath or declaration by a signing inventor. See MPEP 603. Rather, 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. Id. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the non-signing inventor. See MPEP 409.03(a).

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office (Office) require payment of a fee upon filing a petition. In this instance, applicants did not pay the requisite $400.00 petition fee for filing the present petition under 37 CFR 1.183 or submit an authorization to charge the Deposit Account in that amount. Consequently, the present petition under 37 CFR 1.183 is dismissed. The petition will not be treated on its merits until applicants submit a "renewed" petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.67 that all of the actual inventors execute the supplemental declaration accompanied by the $400.00 petition fee.

Nevertheless, the Office reminds applicants that a declaration from a prior application may be supplied pursuant to 37 CFR 1.6(d) to submit the original declaration required in a continuing application. However, an applicant cannot modify the declaration filed in the prior application and submit it in the continuing application. As stated by the examiner, a new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. Furthermore, the requirements for waiver of 37 CFR 1.67 must be met with respect to the new oath or declaration. In other words, applicants must make a showing that they presented inventor Laude with the new declaration but that he refused or could not be located to sign it.

The petition under 37 CFR 1.183 will be evaluated as to whether the non-signing inventor was actually given the opportunity to re-execute the oath or declaration but refused or could not be found to re-execute the supplemental declaration. Where inability to find or locate a named inventor 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. A person having firsthand knowledge of the facts must sign the statement of facts, where at all possible. If attempts to obtain a forwarding address and to locate the non-signing inventor by means such a telephone directory, national registry, or the internet continue to fail, then applicants will have provided the necessary proof that the inventor cannot be reached. Applicants should submit documentary evidence such as the result of a search of the telephone directory, national registry, or the internet to support the conclusion that the inventor cannot be located to execute the declaration.

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. If the non-signing inventor gives a reason for refusing to sign the application oath or declaration that reason should be stated in an affidavit or declaration of facts. When it is concluded by applicants that the non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. Applicants should mail a copy of the declaration to the non-signing inventor and/or his legal representative, accompanied by a cover letter of instructions setting forth a deadline and a statement that no response will constitute a refusal. This lends support to a finding of refusal by conduct. If there is documentary evidence to support facts alleged in an affidavit or declaration of facts, such evidence must be submitted.

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

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 the Electronic Filing System.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SECOND SIGHT MEDICAL PRODUCTS, INC.
12744 SAN FERNANDO ROAD
BUILDING 3
SYLMAR CA 91342

MAILED
MAR 12 2012
OFFICE OF PETITIONS

In re Application of :
LAUDE et al. :
Application No. 11/924,752 : DECISION ON PETITION
Filed: October 26, 2007 :
Attorney Docket No. S366-DIV1 :

This is in response to the petition under 37 CFR 1.183, filed February 21, 2012, to waive the requirement of 37 CFR 1.67 that all of the actual inventors execute the supplemental declaration.

In the present petition, petitioners showed that they mailed a complete copy of the application papers, including a revised supplemental declaration, to inventor Laude at his last known address. However, inventor Laude constructively refused to sign the supplemental declaration. Petitioners submitted the revised supplemental declaration signed by the available joint inventor on his own behalf and on behalf of non-signing inventor Laude with the present petition.

In view of the efforts recounted in the petition to obtain the signature of inventor Laude, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental declaration. The supplemental declaration has been accepted on petition. Accordingly, the petition under 37 CFR 1.183 is **granted.**

The Office acknowledges receipt of the request for an extension of time for response within the third month (and fee), the $400.00 petition fee, and the Request for Continued Examination (and fee) submitted on February 21, 2012.

The application is being forwarded to the Technology Center Art Unit 1717.

Telephone inquiries related 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

Conferee: Anthony Knight, Director

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 9, 2010

TO SPE OF : ART UNIT 2824 - SPE Richard T. Elms.

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/924,801 Patent No.: 7,791,941 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

Antonio Johnson

Should the dependency in claim 11 be changed from "10" to "9" as requested by applicant?
See COCIN dated 10-25-2010

Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

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

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

Comments: To correct ~~amin~~ informalities

MICHAEL G. LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE Art Unit 2876 /Richard Elms/

OPAP IAP4 OCT 25 2010 PATENT & TRADEMARK OFFICE

IN UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.: 7,791,941 Docket No: 2007-0217.00/US
Issue Date: September 7, 2010 Patentee: Hussein I. Hanafi
Title: NON-VOLATILE SRAM CELL

REQUEST FOR CERTIFICATION OF CORRECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
ATTN: Certificate of Correction Branch

It is requested that a Certificate of Correction be issued correcting printing errors appearing in the above-identified United States patent. Two copies of the text of the Certificate in the suggested form are enclosed.

Pursuant to 1.20(a), the examiner is authorized to charge the Certificate of Correction fee of $100.00 to the Deposit Account No. 13-3092.

Issuance of the Certificate of Correction would neither expand nor contract the scope of the claims as properly allowed, and re-examination is not required.

Respectfully submitted,

Customer Number: 26809

Date: October 21, 2010 By: _____
Russ Slifer
Reg. No. 39,838

CERTIFICATE UNDER 37 CFR § 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450, on this 21st day of October 2010

Shellie Bailey /Shellie Bailey/
Name Signature

10/26/2010 HBELETE1 00000022 133092 7791941
01 FC:1811 100.00 DA

PTO/SB/44 (02-01)
PTO/SB/44 (02-01)
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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 : 7,791,941 Page (1) of 3

DATED : September 7, 2010

INVENTOR(S) : Hussein I. Hanafi

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

In column 11, line 5, in Claim 1, before "static" delete "first".

In column 11, line 7, in Claim 1, before "static" delete "first".

In column 11, line 7, in Claim 1, after "inverter;" delete "and"

In column 11, line 8, in Claim 1, delete "each inverter" and insert - - the SRAM - -, therefor.

In column 11, line 8, in Claim 1, before "non-volatile" delete "second".

In column 11, line 9, in Claim 1, delete "first" and insert - - each- -, therefor.

In column 11, line 10, in Claim 1, delete "second" and insert - - non-volatile - -, therefor.

In column 11, line 13, in Claim 1, delete "the first" and insert - - the static- -, therefor.

In column 11, line 14, in Claim 1, after "node" insert - - of a respective inverter - - .

In column 11, line 23, in Claim 1, delete "dielectric." and
insert - - dielectric; and
wherein the control line is coupled to each of the non-volatile storage nodes, and
wherein:
a ground potential applied to the control line stores data from each static storage node to each non-volatile storage node respectively;
a power supply potential applied to the control line returns data from each non-volatile storage node to each static storage node respectively; and
a potential applied to the control line that is higher in magnitude than the power supply potential resets each non-volatile storage node. - -, therefor.

In column 11, line 32, in Claim 3, delete "mode;" and nodes
insert - - mode by applying a ground potential to the pair of non-volatile storage node using a control circuit coupled by a control line to the pair of non-volatile storage nodes; - -, therefor.

In column 11, line 45, in Claim 3, after "dielectric;" delete "and".

PTO/SB/44 (02-01)
PTO/SB/44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,791,941

DATED : September 7, 2010

INVENTOR(S) : Hussein I. Hanafi

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

In column 11, lines 49-54, in Claim 3, delete "mode; wherein transferring data includes changing a potential applied to the pair of non-volatile storage nodes between a first potential and a second potential, using a control circuit coupled by a control line to the pair of non-volatile storage nodes." and
insert - - mode by applying a power supply potential to the pair of non-volatile storage nodes using the control circuit; and
resetting the pair of non-volatile storage nodes by coupling a potential that is higher in magnitude than the power supply potential to the pair of non-volatile storage nodes using the control circuit. - -, therefor.

In column 11, line 61, in Claim 5, delete "first" and insert - - ground - -, therefor.

In column 11, line 65, in Claim 5, delete "storages" and insert - - storage - -, therefor.

In column 11, line 67, in Claim 5, delete "MJT" and insert - - MTJ - -, therefor.

In column 12, line 11, in Claim 5, delete "second" and insert - - power supply - -, therefor.

In column 12, line 14, in Claim 5, before "potential" delete "third".

In column 12, line 14, in Claim 5, after "potential" insert - - that is higher in magnitude than the power supply potential - -

In column 12, line 24, in Claim 7, delete "claim 6," and insert - - claim 5, - -, therefor.

In column 12, line 26, in Claim 7, delete "first" and insert - - ground - -, therefor.

In column 12, line 28, in Claim 7, delete "second" and insert - - power supply - -, therefor.

In column 12, line 30, in Claim 7, before "potential" delete "third".

In column 12, line 30, in Claim 7, after "potential" insert - - that is higher in magnitude than the power supply potential - -.

In column 12, line 32, in Claim 8, delete "second" and insert - - power supply - -, therefor.

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,791,941

DATED : September 7, 2010

INVENTOR(S) : Hussein I. Hanafi

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

In column 12, line 41, in Claim 9, after "inverter;" delete "and".

In column 12, line 58, in Claim 9, delete "dielectric." and insert - - dielectric; and connecting the control line to the pair of non-volatile storage nodes, and wherein: a ground potential applied to the control line stores data from the pair of static storage nodes to the pair of non-volatile storage nodes; a power supply potential applied to the control line returns data from the pair of non-volatile storage nodes to the pair of static storage nodes; and a potential applied to the control line that is higher in magnitude than the power supply potential resets the pair of non-volatile storage nodes. - -, therefor.

In column 12, line 62, in Claim 11, delete "claim 10," and insert - - claim 9, - -, therefor.

In column 12, lines 63-64, in Claim 11, before "devices" delete "the pair of MTJ".

In column 14, line 10, in Claim 14, after "dielectric;" delete "and".

In column 14, line 14, in Claim 14, delete "nodes." and insert - - nodes; and resetting the pair of non-volatile storage nodes by coupling a second positive potential that is higher in magnitude than the first positive potential to the pair of nonvolatile storage nodes. - -, therefor.

In column 14, line 15, in Claim 15, delete "the method" and insert - - resetting - -, therefor.

~~In column 14, line 16, in Claim 15, delete "a" and insert - - the - -, therefor.~~ delete

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
JUN 21 2011
OFFICE OF PETITIONS

In re Patent No. 7,912,449 : DECISION ON
Hansen, et al. : REQUEST FOR RECONSIDERATION
Application No. 11/924,814 : of PATENT TERM ADJUSTMENT
Issue Date: March 22, 2011 : and
Filed: October 26, 2007 : NOTICE OF INTENT TO ISSUE
Attorney Docket No. 18657US02 : CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) INDICATED IN THE PATENT (37 CFR § 1.705(d))", filed May 23, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from six hundred thirty-three (633) days to six hundred seventy-seven (677) days.

The petition is **GRANTED to the extend indicated herein.**

On March 22, 2011, the instant application matured into U.S. Patent No. 7,826,493 with a patent term adjustment of 633 days. The Office determined a patent term adjustment of 633 days based upon 532 days of Office delay pursuant to 37 CFR 1.703(a)(1), and 147 days pursuant to 37 CFR 1.703(b), reduced by 2 days of Applicant delay pursuant to 37 CFR 1.704(b), and 44 days of Applicant delay pursuant to 37 CFR 1.704(c)(10).

However, Patentees are not correct in their assertion that Applicant delay should be 2 days for the filing of a Rule 312 Amendment on February 7, 2011. 37 CFR 1.704(c)(10) states that the filing of a Rule 312 Amendment shall result in reduction of the patent term adjustment, and that the reduction shall be the lesser of:

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

Here, the Rule 312 Amendment was filed on February 7, 2011. The Office mailed a response on February 9, 2011. Therefore, the number of days from and including February 7, 2011 to and including February 9, 2011 is 3 days. Patentees' arguments with respect to this calculation have been considered, but are not persuasive. Patentees are correct, however, that the Office should not have accorded 44 days of Applicant delay.

In addition, Patentees argue that they should not have been accorded 2 days of Applicant delay for filing a response to a June 11, 2010 Office action on September 13, 2010, because September 11, 2010 fell on a Saturday. See 37 CFR 1.7(a)). Patentees' argument has been considered, but is not persuasive. Regarding this, MPEP 2731 states:

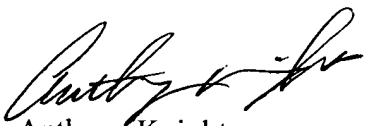
> the date of filing (37 CFR 1.6) will be the date used in a patent term adjustment calculation. Applicant may wish to consider the use of the "Express Mail Post Office to Addressee " service of the United States Postal Service (37 CFR 1.10) or facsimile transmission (37 CFR 1.6(d)) for replies to be accorded the earliest possible filing date for patent term adjustment calculations. Alternatively, applicant may choose to mail correspondence with sufficient time to ensure that the correspondence is received in the Office (and stamped with a date of receipt) before the expiration of the three-month period.

In view thereof, the correct number of days of patent term adjustment is 674 days (532 days of "A"' delay, 147 days of "B" delay, reduced by 5 (2+3) days of Applicant delay.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application is being forwarded to the 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 **six hundred seventy-four (674)** 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 : 7,912,449 B2

DATED : **March 22, 2011**

INVENTOR(S) : Hansen 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 633 days.

Delete the phrase "by 633 days" and insert – by 674 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 01-19-2012

TO SPE OF : ART UNIT 1741 Patent No.: 7811418 **Serial No. 11/924,835**

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**.

Eva James 571-272-3422

Certificate of Correction Branch

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

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

Comments: Original 37 CFR 1.48 request met the requirements of that rule and should have been granted by the Primary Examiner in the 5/18/10 action or the 6/22/10 action. The request to delete inventors is granted.

1/23/12

Matthew J. Daniels, SPE Art Unit 1741

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.
11/924,838	10/26/2007	Abigail Elisabeth Short	14917.0752US01/321403.01	1952

27488 7590 09/23/2010

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER	
RAAB, CHRISTOPHER J	

ART UNIT	PAPER NUMBER
2156	

MAIL DATE	DELIVERY MODE
09/23/2010	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

Christopher J. Leonard
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of:
SHORT et al.
Application No. 11/292,838
Filed: October 26, 2007
For: CALCULATING AND STORING DATA STRUCTURES

DECISION ON PETITION
UNDER 37 CFR § 1.48(a)

This is a decision on the petition, filed on 01 September 2010, under 37 C.F.R. § 1.48(a).

The petition is **GRANTED**.

The application is being forward to Technology Center Support Staff to enter inventor Richard Shawn McDowell in the PALM database and to mail a corrected filing receipt.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Foley & Lardner LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

NOV 21 2011

OFFICE OF PETITIONS

In re Application :
Ramos, et al. :
Application No. 11/924,914 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: October 26, 2007 :
Dkt. No.: 098888-2021 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed October 24, 2011.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 1,138 days, not 698 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). As the application fee is a prerequisite for treatment on the merits of any petition submitted pursuant to 37 CFR 1.705, the fee is not subject to refund. Thus, the request for refund is DISMISSED.

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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

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ABB INC.
LEGAL DEPARTMENT-4U6
29801 EUCLID AVENUE
WICKLIFFE OH 44092

MAILED
JUN 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Bailey et al.	:	
Application No. 11/924,943	:	DECISION ON PETITION
Filed: October 26, 2007	:	
Attorney Docket No. E20050200-4	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 31, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 17, 2011, as required by the Notice of Allowance and Fee(s) Due mailed February 17, 2011. Accordingly, the date of abandonment of this application is May 18, 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 payment of the issue fee of $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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

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

/Joan Olszewski/
Joan Olszewski
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.
11/924,976	10/26/2007	Manh-Quynh Chu	0681-1001-2	2207

466 7590 03/26/2012

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

EXAMINER	
NELSON, MATTHEW M	
ART UNIT	**PAPER NUMBER**
3776	

NOTIFICATION DATE	DELIVERY MODE
03/26/2012	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):

DocketingDept@young-thompson.com

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

YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria VA 22314

In re Application of:
CHU, MANH-QUYNH et al
Serial No. 11/924,976
Filed: Oct. 26, 2007
Docket: 0681-1001-2
Title: TRANSPARENT AND RADIO-OPAQUE RETENTION PIN

DECISION ON PETITION
UNDER 37 C.F.R. § 1.59(b)

This is a decision on the petition and request under 37 CFR 1.59(b), filed July 16, 2010 to expunge information from the above identified application. The petition fee of $200.00 set forth in 37 CFR 1.17(g) has been charged to Deposit Account #25-0120 as authorized in the petition.

In the petition, the petitioner requests that the response (total 6 pages) submitted July 16, 2010, with the EFS receipt No. 8032456 be expunged, since the response submitted was not intended for the examiner to consider. The response was filed July 16, 2011 with a time stamp of 14:31:48. Applicant states that a substitute response with EFS Receipt No. 8033297 with the petition was submitted for the examiner's consideration.

The petition is **granted**.

The USPTO does not remove any papers filed in an application. However, since the applicant has unintentionally filed the wrong documents on July 16, 2011, the documents have been blocked from public view in the Public Pair system.

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

PETITION GRANTED

Angela D. Sykes, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 3, 2011

TO SPE OF : ART UNIT 2856
SUBJECT : Request for Certificate of Correction for Appl. No. 11/924991 patent No.:7849726
C of C mailroom date:--04-28-11

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

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

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

Magdalene Talley

Certificates of Correction Branch

571-272- 0423

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The Certificate of Correction (CoC) is not acceptable because the CoC is not accompanied by either a statement from the current named inventors (i.e. the remaining two inventors) agreeing to the change under MPEP 1.324 (b)(2) or a statement from all assignees of the parties agreeing to the change under MPEP 1.324 (b)(3).

2856

SPE **Art Unit**

DO NOT ENTER: /DSL/

10/20/2011

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. : 7,849,726

APPLICATION NO.: 11924991

ISSUE DATE : December 14, 2010

INVENTOR(S) : Vince B. Hadley, Bartlesville, OK; Rodney Wayne Dilbeck, Bartlesville, OK

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:

We request a Certificate of Correction on the following. Please remove the following inventors on this Patent:

Max A. Bailey
Jonathan W. Asher
Anthony P. Walker
Steven Gene Lakey
Stephen P. Paetz
Brent E. Berry
Robert W. Rutledge

The only inventors on this Patent should be:

Vince B. Hadley, Bartlesville, OK
Rodney Wayne Dilbeck, Bartlesville, OK

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

Paul R. Katterle
ABB Inc.
Legal Dept. - 4U6

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Date Mailed : November 2, 2011
Serial No. : 11/924991
Patent No. : 7,849,726 B2
Patent Issued : December 14, 2010
Inventor(s) : Max A. Bailey, et al.
Title : GAS CHROMATOGRAPH WITH DIGITAL PROCESSING OF THERMOCONDUCTIVITY DETECTOR SIGNALS

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..

Respecting the alleged error noted in your request, the certificate of correction (CofC) is not acceptable because the CofC is not accompanied by either a statement from the current named inventors (i.e., the remaining two inventors) agreeing to the change under MPEP 1.324(b) (2) or a statement from all assignees of the parties agreeing to the change under MPEP 1.324 (b) (3). .

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

Magdalene Talley
For Mary Francis Diggs, Supervisor
Decisions and Certificate
Of Correction Branch
(571)272-0423
Fax 571-270-9942

ABB Inc.
Legal Department -4U6
29801 Euclid Avenue
Wickliffe, OH 44092

MD/mt

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : April 12, 2012

TO SPE OF : ART UNIT 2818
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/925017 Patent No.: 7638405

Co f C mailroom date: 4-3-12

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.

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

Comments: _____

_____

_____

_____

_____

_____ 2818
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

MAY 16 2011

OFFICE OF PETITIONS

In re Application of	:	
Robert Deziel, et al.	:	
Application No. 11/925,151	:	NOTICE
Filed: October 26, 2007	:	
Attorney Docket No. 06-871-US	:	

This is in response to the paper filed April 5, 2011 under 37 CFR 1.28(g)(2) requesting that status as a Small Entity be removed.

In accordance with the Notice of Loss of Entitlement to Small Entity Status request, status as a Small Entity has been removed.

This file is being referred to the Office of Data Management for further processing..

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

JUL 27 2011

OFFICE OF PETITIONS

In re Application of	:	
Robert Deziel et al	:	
Application No. 11/925,151	:	DECISION GRANTING PETITION
Filed: October 26, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 06-871-US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 25, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 5, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BAKER BOTTS, LLP
2001 ROSS AVENUE
6TH FLOOR
DALLAS, TX 75201

MAILED

SEP 23 2010

OFFICE OF PETITIONS

In re Application of :
Roberto Warren Fisher, et al. :
Application No. 11/925,186 : DECISION ON PETITION
Filed: October 26, 2007 : UNDER 37 CFR 1.313(c)(1)
Attorney Docket No. 074175.0162 :

This is a decision on the petition under 37 CFR 1.313(c), filed September 22, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

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

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

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

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

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

For item (2) stated above, the petition under 37 CFR 1.313(c) cannot be granted. Petitioner has failed to submit the required submission in compliance with 37 CFR 1.114.

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

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

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

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

By fax: **(571) 273-0025**
Office of Petitions

Telephone Inquiries concerning this matter may 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

BAKER BOTTS, LLP
2001 ROSS AVENUE
6TH FLOOR
DALLAS, TX 75201

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Roberto Warren Fisher, et al.	:	
Application No. 11/925,186	:	DECISION GRANTING PETITION
Filed: October 26, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 074175.0162	:	

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed September 30, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 26, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2156 for processing of the request for continued examination under 37 CFR 1.114 filed September 22, 2010 and for consideration of the concurrently filed amendment.

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 01-12-12

TO SPE OF : ART UNIT 3718

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/925296 Patent No.: 8070587

CofC mailroom date: 01-05-12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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: The change in column 29, line 62 is for claim 3, not claim 4. See attached.

PETER VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

3718

SPE Art Unit

4/10/2012

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. : 8,070,587 B2

APPLICATION NO.: 11/925,296

ISSUE DATE : December 6, 2011

INVENTOR(S) : Dwayne A. Davis, et al.

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

IN THE CLAIMS:

In Claim ~~4~~ 3, column 29, line 62, before "primary game" add --at least one--.

4/10/12

In Claim 7, column 30, line 18, after "wherein" delete "the".

In Claim 11, column 31, line 18, before "primary game" delete "at least one".

In Claim 12, column 31, line 26, replace "10" with --11--.

In Claim 12, column 32, line 4, before "primary game" delete "at least one".

In Claim 13, column 32, line 17, before "primary" delete "at least one".

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Adam H. Masia, K&L Gates LLP, P.O. Box 1135, Chicago, Illinois 60690-1135

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/8/2011 Paper No.: ———

TO SPE OF : ART UNIT 1714 CgC mailroom date 2/1/2011

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/925331 Patent No.: 7867526 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: /AW/ Alex Weddle

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/8/2011 Paper No.: ———

TO SPE OF : ART UNIT 1714 CgC mailroom date 2/1/2011

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/925331 Patent No.: 7867566 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

_____ 1714

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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DEC 01 2011

OFFICE OF PETITIONS

Maschoff Gilmore & Israelsen
1441 W. Ute Blvd., Suite 100
Park City UT 84098-7633

In re Application of :
William Franklin Borghetti :
Application No. 11/925,343 : DECISION ON PETITION
Filed: October 26, 2007 :
Attorney Docket No. S1251.10001US04 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 26, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed June 24, 2011. Accordingly, the date of abandonment of this application is September 26, 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 a RCE (Request for Continued Prosecution) and fee of $465, (2) the petition fee of $930, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement 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 Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2154 for appropriate action by the Examiner in the normal course of business on the reply received October 25, 2011.

/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
www.uspto.gov

W. EDWARD RAMAGE
COMMERCE CENTER SUITE 1000
211 COMMERCE ST
NASHVILLE TN 37201

MAILED

NOV 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Charlie B. Mitchell, Jr.	:	
Application No. 11/925,412	:	ON PETITION
Filed: October 26, 2007	:	
Attorney Docket No. 2904435.000001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 6, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 7, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3782 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : April 14, 2010

TO SPE OF : ART UNIT 2874
SUBJECT : Request for Certificate of Correction for Appl. No /11/925464 / patent 7574091

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: The Request for Certificate of Correction to include the statement of the Government Rights in the invention and to correct typographical/clerical errors. No new matter is added.

/UYEN-CHAU N. LE/ — **SPE**

2874 — **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

Paper No.

SLATER & MATSIL, L.L.P.
17950 PRESTON RD, SUITE 1000
DALLAS TX 75252-5793

MAILED

JAN 03 2012

OFFICE OF PETITIONS

In re Application of	:	
Roemerman et al.	:	DECISION ON
Application No. 11/925,471	:	PETITION
Filed: October 26, 2007	:	
Attorney Docket No. INC-020	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed December 12, 2011.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted **within TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(b)."

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, September 8, 2011, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. This petition precedes the mailing of a courtesy Notice of Abandonment.

The provisions of 37 C.F.R. § 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to

revive an abandoned application or a lapsed patent. A petition filed 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 § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition includes a proposed reply in the form of a request for continued examination (and RCE fee) and submission; 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.

The requirements of 37 CFR 1.137(b) have not been met as the reply required to revive this application has not been filed. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

While the revival of applications abandoned for failure to timely prosecute and for failure to timely pay the issue fee are incorporated together in 37 CFR 1.137, the statutory provisions for the revival of an application abandoned for failure to timely prosecute and for failure to timely submit the issue fee are mutually exclusive. See Brenner v. Ebbert, 398 F.2d 762, 157 USPQ 609 (D.C. Cir. 1968). 35 U.S.C. 151 authorizes the acceptance of a delayed payment of the issue fee, if the issue fee "is submitted ... and the delay in payment is shown to have been unavoidable." 35 U.S.C. 41(a)(7) likewise authorizes the acceptance of an "unintentionally delayed payment of the fee for issuing each patent." Thus, 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue fee. Therefore, the filing of a request for continued examination without payment of the issue fee or any

outstanding balance thereof is not an acceptable reply in an application abandoned or patent lapsed for failure to pay the issue fee or any portion thereof.

Furthermore, the Notice of Allowance requires the timely payment of the issue fee in effect on the date of its mailing to avoid abandonment of the application. In instances in which there is an increase in the issue fee by the time of payment of the issue fee required in the Notice of Allowance, the Office will mail a notice requiring payment of the balance of the issue fee then in effect. See In re Mills, 12 USPQ2d 1847, 1848 (Comm'r Pat. 1989). The phrase "for failure to pay the issue fee or any portion thereof" applies to those instances in which the applicant fails to pay either the issue fee required in the Notice of Allowance or the balance of the issue fee required in a subsequent notice. In such instances, the reply must be the issue fee then in effect, if no portion of the issue fee was previously submitted, or any outstanding balance of the issue fee then in effect, if a portion of the issue fee was previously submitted.

Effective September 26, 2011, the small entity issue fee is $870. The publication fee remains $300. Payment of both fees at the rate in effect on the date of submission is required to revive this 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 fax: (571) 273-8300
ATTN: Office of Petitions

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

SLATER & MATSIL, L.L.P.
17950 PRESTON RD, SUITE 1000
DALLAS TX 75252-5793

MAILED
JAN 19 2012
OFFICE OF PETITIONS

In re Application of :
Roemerman et al. : DECISION ON
Application No. 11/925,471 : PETITION
Filed: October 26, 2007 :
Attorney Docket No. INC-020 :

This is a decision on the RENEWED PETITION UNDER 37 C.F.R. § 1.137(b) filed January 12, 2012.

The petition is **GRANTED**.

The above-identified application became abandoned effective December 9, 2011 for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, September 8, 2011, of the Notice of Allowance and Fee(s) Due.

By decision mailed January 3, 2012, the initial petition to revive filed December 12, 2011 was dismissed. The petition did not include the reply required to the Notice of Allowance, that is, payment of the issue fee and publication fee. Rather, petitioner submitted a request for continued examination (RCE).

Despite the dismissal of the petition, the request for continued examination (RCE) filed December 12, 2011 was acted on by the examiner. In response thereto, a new Notice of Allowance and Issue Fee Due was mailed on January 9, 2012. Petitioner has timely responded to both the petition decision and the new Notice of Allowance with payment of both the issue fee and

publication fee. The instant petition is granted to revive this application and to close the gap in prosecution of this application.

Given that the examiner has already acted on the RCE, there is no need to return this application to the Technology Center AU for further consideration. Given that the issue fee and publication fee have been paid[1], the application is being forwarded to the Office of Data Management for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[1] The Notice of Allowability did not set forth any separate requirements.

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

Date : 9/21/2010
Patent No. : 7,609,253
Serial No. : 11/925,517
Inventor(s) : Trent, Jr. et al.
Issue Date : October 27, 2009
Title : **CLOSED-LOOP SENSOR ON A SOLID-STATE OBJECT POSITION DETECTOR**
Doc./File No. : **028.1113C5**

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 the your request, inspection of the file of the application for the patent reveals that column 25, line 13, in the patent, is/are printed in accordance with the record in the Patent and Trademark Office, as passed to issued by the examiner. There being no fault on the part of the Patent and Trademark Office, it has no authority to issue a certificate of correction under the provision of 1.322. Therefore, no correction is in order here.

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

However, further consideration will be given these matters, upon receipt of a request for **Reconsideration** certificate of correction (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892 w/references considered by examiner, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch along with the appropriate fee of 100.00.

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

INGRASSIA FISHER & LORENZ, P.C. (SYNA)
7010 E. Cochise Road
SCOTTSDALE AZ 85253

ecw

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON DC 20001

MAILED

DEC 19 2011

OFFICE OF PETITIONS

In re Patent No. 8,034,776	:
Fasano et al.	: DECISION ON REQUEST FOR
Issue Date: October 11, 2011	: RECONSIDERATION OF
Application No. 11/925,522	: PATENT TERM ADJUSTMENT
Filed: October 26, 2007	: AND NOTICE OF INTENT
Attorney Docket No. ALBA-030/03US 305820-2295	: TO ISSUE CERTIFICATE OF CORRECTION
Title: MATERIALS AND METHODS FOR THE TREATMENT OF CELIAC DISEASE	:

This is a decision on the petition filed on December 12, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred forty-three (743) days. Patentees dispute the 51-day reduction.

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

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

Patentees dispute the 51 day reduction taken for the submission of the amendment under 37 CFR 1.312 filed on August 22, 2011. Patentees contend the reduction should be two days based upon the mailing of the response to the 1.312 amendment mailed on August 24, 2011.

Patentees' argument has been considered and determined to be convincing that the 51 day reduction is not warranted. However, the reduction required is 3 days not 2 days.

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:

37 CFR 1.704 (c)(10) provides:

> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

A review of the record shows that the submission of the amendment pursuant to 37 CFR 1.312 required a reduction pursuant to 37 CFR 1.704(c)(10). A reduction pursuant to 37 CFR 1.704(c)(10) of 3 days for the submission of the 312 amendment on August 22, 2011. The reduction is calculated beginning August 22, 2011 and ending on August 24, 2011, the date the Notice in response to the amendment was mailed. The 51 day reduction will be removed. A reduction of 3 day reduction will be entered.

As such the total number of days the period of adjustment under 37 CFR 1.702(a) and (b) must be reduced due to applicants' delay which totals 133 (90 + 30 + 10 + 3) days.

In view thereof, the patent is entitled to an overall adjustment of 742 days (525 days under 37 CFR 1.702(a) + 350 days under 37 CFR 1.702(b) - 133 days of applicant delay).

The application is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred forty-two (742)** days.

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

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

Charlema Grant
Attorney Advisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,034,776 B2

DATED : October 11, 2011

DRAFT

INVENTOR(S) : Fasano 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 694 days.

Delete the phrase "by 694 days" and insert – by 742 days--

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AUG 05 2010

OFFICE OF PETITIONS

SLATER & MATSIL, L.L.P.
17950 PRESTON ROAD, SUITE 1000
DALLAS, TX 75252

In re Application of	:	
Muff, Simon	:	DECISION ON PETITION
Application No. 11/925,547	:	TO WITHDRAW
Filed: October 26, 2007	:	FROM RECORD
Attorney Docket No. QM000016	:	

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 17, 2010.

The request is **DISMISSED** as involving a moot issue.

A review of the file record indicates that the power of attorney to 68038 was revoked by the Assignee of the patent application on July 13, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: JOHN S. ECONOMOU
202 MAMARONECK AVE., THIRD FLOOR
WHITE PLAINS NY 10601

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Foley & Lardner LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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JAN 30 2012

OFFICE OF PETITIONS

In re Application :
Levy :
Application No. 11/925,594 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: October 26, 2007 :
Dkt. No.: 098888-1023 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed December 21, 2011.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 646 days, not 445 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). As reconsideration of patent term adjustment is subject to the above-identified fee, the request for refund is **DISMISSED**.

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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

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PATENT GROUP
8005 SW BOECKMAN ROAD
WILSONVILLE, OR 97070-7777

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AUG 31 2011

OFFICE OF PETITIONS

In re Application of :
Emile Sahouria, et al. :
Application No. 11/925,606 : DECISION ON PETITION
Filed: October 26, 2007 :
Attorney Docket No.: 10449-REG1/TLE :

This is a decision on the petition, filed August 10, 2011, to revive the above-identified application. under the unavoidable provisions of 37 CFR 1.137(a).

The petition is **DISMISSED.**

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

The application became abandoned for failure to timely pay the publication and issue fees on or before May 9, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed February 9, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 10, 2011. A Notice of Abandonment was mailed on May 25, 2011.

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

In regard to item (1) - Petitioner submitted a Request for Continued Examination (RCE) under 37 CFR 1.14 with the present petition. However, the RCE is improper, since the request was not filed prior to May 10, 2011, the date upon which the application became abandoned for failure to pay the issue fee. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply under 37 CFR 1.137(b) must be the payment of the issue fee or any outstanding balance thereof.

In regard to item (3) - Petitioner asserts that the Notice of Allowance mailed May 9, 2011 was not received. However, a review of the application file reveals no irregularities in the mailing of the Office action mailed May 9, 2011. Thus, there is a strong presumption that the correspondence was properly mailed to and received by the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Office action, petitioner must submit evidence to overcome this presumption.

The showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).

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 $1,620 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 delivered through one of the following mediums:

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

By Internet: EFS-Web[1]

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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APR 07 2011
OFFICE OF PETITIONS

In re Application of :
BROADLEY et al. :
Application No. 11/925,658 : DECISION ON PETITION
Filed: October 26, 2007 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Docket No. BROADRE.23CP2C1 :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed March 2, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

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

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

The petition does not comply with item (1).

A nonprovisional application that directly claims the benefit of a provisional application under 35 U.S.C. 119(e) must be filed within 12 months from the filing date of the provisional application. Here the application that claims benefit to Provisional application serial number 60/138,141 is not identified. Since all of the nonprovisional applications cited in the priority claim were not filed within 12 months of the Provisional application 60/138,141, the specific nonprovisional application that claims benefit to 60/138,141 must be identified.

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

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

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

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

Christopher Bottorff
Petitions Examiner
Office of Petitions

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IRVINE CA 92614

MAILED
MAY 31 2011
OFFICE OF PETITIONS

In re Application of	:	
BROADLEY et al	:	
Application No. 11/925,658	:	DECISION ON PETITION
Filed: October 26, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BROADRE.23CP2C1	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed April 22, 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 petitions are **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.

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

This application is being forwarded to Technology Center Art Unit 1724 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.

for David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/925,658	10/26/2007	1724	1280	BROADRE.23CP2C1	25	2

CONFIRMATION NO. 3381

CORRECTED FILING RECEIPT

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 05/27/2011

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

Applicant(s)

Scott T. Broadley, Mission Viejo, CA;
Herbert P. Silverman, Laguna Beach, CA;
Ta-Yung Chen, Lake Forest, CA;
Steven R. Ragsdale, Mukilteo, WA;

Power of Attorney: The patent practitioners associated with Customer Number 20995

Domestic Priority data as claimed by applicant

This application is a CON of 10/613,976 07/02/2003 PAT 7,344,627
which is a CIP of 10/361,708 02/06/2003 PAT 7,025,871
and is a CIP of 09/738,881 12/14/2000 PAT 6,616,821
and is a CIP of 09/590,781 06/08/2000 PAT 6,599,409
and said 10/361,708 02/06/2003
is a CON of 09/590,781 06/08/2000 PAT 6,599,409
and said 09/738,881 12/14/2000
is a CIP of 09/590,781 06/08/2000 PAT 6,599,409
which claims benefit of 60/138,141 06/08/1999
and said 10/613,976 07/02/2003
claims benefit of 60/394,106 07/03/2002

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: 01/18/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/925,658**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

REFERENCE ELECTRODE HAVING A FLOWING LIQUID JUNCTION AND FILTER MEMBERS

Preliminary Class

204

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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IRVINE CA 92614

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APR 25 2011
OFFICE OF PETITIONS

In re Application of :
Broadley et al. :
Application No. 11/925,665 : DECISION ON PETITION
Filed: October 26, 2007 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. BROADRE.23CP2D1 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 8, 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 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 petition does not comply with item (1) .

As to item (1), The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). A review of the amendment shows applicants contend that all of the applications claim priority to U.S. Provisional No. 60/138,141. However, the nonprovisional applications claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. A review of the record shows application no. 10/361,708 and application no. 09/738,881 were not filed within twelve months of June 8, 1999. Further, the status of each

nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications.

The issue fee in this application was paid on February 9, 2011. Effective May 29, 2000, the Office changed the practice by clarifying that an amendment under 37 CFR 1.312 (after allowance) must be filed prior to or with payment of the issue fee, and eliminated 37 CFR 1.312(b). Thus, the application will continue processing regardless of the outcome of the petition decision. As such, petitioner may wish to consider a withdrawal from issue or a certificate of correction.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

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

By mail:
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By hand:
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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 Charlema Grant at (571) 272-3215.

Christopher Bottorff
Petition Examiner
Office of Petitions

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ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

MAR 23 2011

OFFICE OF PETITIONS

In re Application of :
Nanlin Han :
Application No. 11/925,752 : DECISION ON PETITION
Filed: October 27, 2007 :
Attorney Docket No. **41768-502001US** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 19, 2011, to revive the above-identified application.

The petition is **GRANTED**.

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

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on January 19, 2011 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/925,798	10/27/2007	Brad Olson	3082/US	3629

30008 7590 02/15/2011

GUDRUN E. HUCKETT DRAUDT
SCHUBERTSTR. 15A
WUPPERTAL, 42289
GERMANY

EXAMINER	
KOEHLER, CHRISTOPHER M	
ART UNIT	PAPER NUMBER
3726	
MAIL DATE	DELIVERY MODE
02/15/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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GUDRUN E. HUCKETT DRAUDT
SCHUBERTSTR. 15A
WUPPERTAL 42289 DE GERMANY

In re Application of:
OLSON, BRAD et al
Serial No.: 11/925,798
Filed: Oct. 27, 2007
Docket: 3082/US
Title: GROMMET SLOT

DECISION ON PETITION

This is a decision on the petition filed on March 5, 2010 seeking withdrawal of the finality of the Office action mailed Nov. 27, 2009. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is dismissed as untimely.

In the March 5, 2010 petition, the petitioner requests the finality of the Office action of November 27, 2009 be reconsidered and withdrawn because the applicant believes that the final rejection was premature. In particular, petitioner argues that the rejections of claims were in error. Therefore, petitioner believes the rejection is improper.

A further review of the file record shows that the instant petition was filed more than three months after the mailing date of the final Office action of November 27, 2010. Pursuant to 37 CFR 1.181(f)[1], the petition is not timely filed since the petition was not filed within two months of the action complained of. As the petition was not timely filed, the requested withdrawal of finality of the Office action of November 27, 2010 will not be granted. Based on the reasons as stated above, petitioner's request to withdraw the finality of the Office action dated November 27, 2010 is hereby dismissed as untimely.

[1] 37 CFR 1.181(f): The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS UNTIMELY.

Angela D. Sykes, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/925,798	10/27/2007	Brad Olson	3082/US	3629

30008 7590 04/21/2011

GUDRUN E. HUCKETT DRAUDT
SCHUBERTSTR. 15A
WUPPERTAL, 42289
GERMANY

EXAMINER	
KOEHLER, CHRISTOPHER M	
ART UNIT	PAPER NUMBER
3726	

MAIL DATE	DELIVERY MODE
04/21/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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www.uspto.gov

GUDRUN E. HUCKETT DRAUDT
SCHUBERTSTR. 15A
WUPPERTAL 42289 DE GERMANY

In re Application of:	
OLSON, BRAD et al	DECISION ON PETITION TO
Serial No.: 11/925,798	WITHDRAW OF FINAL
Filed: Dec. 3, 2004	OFFICE ACTION
Docket: 3082/US	
Title: GROMMET SLOT	

This is a decision on the renewed petition filed on April 14, 2011 to withdraw the final Office action of November 27, 2009 because the applicant believes the final rejection of claims 1, 3 and 4 under 35 USC 102(b) as anticipated by Benedetti was improper. This decision is being considered pursuant to 37 CFR 1.181. No fee is required.

The petition is **DENIED**.

In the March 5, 2010 petition, the petitioner requests the finality of the Office action of November 27, 2009 be reconsidered and withdrawn because the applicant believes that the final rejection was improper.

The record shows that:

1. On April 29, 2009, the examiner issued a non-final Office action rejecting all pending claims 1-5 under 35 USC 102(b) and 103 (a) as unpatentable over Benedetti patent and Applicant's Admission of prior art..

2. In response to the non-final Office action, on July 8, 2009 the applicant filed an amendment with arguments traversing the rejection.

3. In response to the applicant's claim amendment and arguments, on November 27, 2009, the examiner issued a final Office action rejecting all pending claims 1, 3-5. The examiner answered all arguments raised by the applicant in the final Office action

4. On January 26, 2010, the applicant filed a Rule 116 amendment and traversed the rejection of claims.

5. In February 22, 2010, the examiner sent an Advisory Action informing the applicant that the Rule 116 amendment will be entered for appeal purpose.

6. On March 5, 2010, a petition to withdraw finality of the last Office action of November 27, 2009 was filed.

7. A decision to dismiss the petition as untimely (37 CFR 1.181 (f) was mailed on February 15, 2011.

8. On February 23, 2011, the application became abandoned for failure to respond to the final Office action of November 27, 2009

9. On April 13, 2011, the current renewed petition requesting reconsideration of the earlier dismissal was filed.

Analysis and Discussion

A review of the file record shows that the instant petition was filed more than three months after the mailing date of the final Office action of November 27, 2010. Pursuant to 37 CFR 1.181(f)[1], the petition is not timely filed since the petition was not filed within two months of the action complained of. As the petition was not timely filed, the requested withdrawal of finality of the Office action of November 27, 2010 will not be granted. Based on the reasons as stated above, petitioner's request to withdraw the finality of the Office action dated November 27, 2010 is hereby denied as untimely.

In the renewed petition, petitioner also argues that the examiner has agreed with the applicant that the prior art patent to Benedetti fails to anticipate claim 1 in a short interview of March 5, 2010. However, it is noted that the Advisory Action clearly stated that the examiner disagrees with the applicant's arguments as presented in the Rule 116 amendment of January 26, 2010. There is no record in the file indicating the examiner agreed to withdraw the final rejection. It appears that the interpretation of the prior art reference is now at issue. In this case, it does not appear to be any procedural error committed by the current examiner. It should be noted that petitions to the Director are generally directed to correct procedural errors and not to the merits of the case. Petitions may be taken to the Director for non-appealable issues in accordance with 37CFR § 1.181(a)[2]. The issue regarding the rejection of claims is appealable and should therefore properly be taken up with the Board of Patent Appeals and Interferences. Because this

[1] 37 CFR 1.181(f): The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

[2] 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.

matter is appealable, it does not fall within the Director's discretion in accordance with 37 CFR §1.181. If applicant believes that the examiner has erred in his judgment in patentability determination, a proper course of action would be to file an appeal.

Under the circumstances, petitioner's requested relief can not be granted. The application remains abandoned for failure to file a response to the final Office action mailed on November 27, 2009.

Conclusion

In view of the record, petitioner's request to withdraw the final Office action is denied. Issues regarding the propriety of the rejection of the claims are appealable and will not be decided by petition.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181" and directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02(b). Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

Accordingly, the petition is **denied**

Angela D. Hayes for
Donald T. Hajec, Director
Technology Center 3700

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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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GUDRUN E. HUCKETT DRAUDT
SCHUBERTSTR. 15A
WUPPERTAL 42289 DE GERMANY

MAILED

NOV 01 2011

OFFICE OF PETITIONS

In re Application of
Brad Olson et al
Application No. 11/925,798
Filed: October 27, 2007
Attorney Docket No. 3082/US

ON PETITION

This is a decision on the petition filed, June 21, 2011, under 37 CFR 1.181(a)(3) requesting that the Director exercise his supervisory authority and overturn the decision of the Director, Technology Center 3700 (Technology Center Director), dated April 21, 2011, which refused to withdraw the finality of the Office action mailed November 27, 2009.

The decision of the Technology Center Director has been reviewed and no error has been found in that decision. Accordingly, the request to withdraw the finality of the Office action is **Denied**.

This application became abandoned on February 28, 2010 for failure to respond the final Office action of November 27, 2009.

Petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 petition fee.

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

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

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

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

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

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6824.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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GUDRUN E. HUCKETT DRAUDT
SCHUBERTSTR. 15A
WUPPERTAL 42289 DE GERMANY

MAILED
JAN 26 2012
OFFICE OF PETITIONS

In re Application of

Olson, et al.

Application No. 11/925,798

Filed: October 27, 2007

DECISION ON PETITION

Attorney Docket No. **3082/US**

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed November 27, 2009. The final Office action set a shortened statutory period for reply of three months from its mailing date. A response was filed on January 26, 2010. An Advisory Action mailed February 22, 2010, advised that the response of January 26, 2010, failed to place the application in condition for allowance. No further responses were received and the application became abandoned on February 28, 2010. A Notice of Abandonment was mailed February 23, 2011.

The Request for Continued Examination filed November 15, 2011, is noted.

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 instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application,

the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The statement under 37 CFR 3.73(b) filed January 28, 2010, is noted. Petitioner should file a new request to change power of attorney and correspondence address as the filing made January 28, 2010, has already been rejected,

The application file is being forwarded to Technology Center 3700, GAU 3726 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:
James R. Hasselbeck
2285 Franklin Road, Suite 200
Bloomfield Hills, MI 48302

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2-10-11

TO SPE OF : ART UNIT 2454

SUBJECT : Request for Certificate of Correction for Appl. No.: 11925960 Patent No.: 7877489

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Omega Lewis
Certificates of Correction Branch

703-756-1575

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

/Joseph E. Avellino/ — **SPE**

2454 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-26-2011

TO SPE OF : ART UNIT 2168

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/925964 Patent No.: 7917505

CofC mailroom date: 5-16-2011

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: should claims be enter? Eva James

Certificates of Correction Branch

571-272-3422

Thank You For Your Assistance

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

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

Comments: OK to enter the corrections filed on 5/16/11.

TIM VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

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STRATEGIC PATENTS P.C.
C/O CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

MAILED

MAR 07 2011

OFFICE OF PETITIONS

In re Application of :
Shah ULLAH :
Application No. 11/926,015 : DECISION GRANTING PETITION
Filed: October 28, 2007 : UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. **OMNI-0001-P39** :

This is a decision on the petition, filed March 4, 2011, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment. *See* 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/20/10

TO SPE OF : ART UNIT 2454

SUBJECT : Request for Certificate of Correction for Appl. No.: 11926058 Patent No.: 7593987

CofC mailroom date:
12/16/10

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit 2434

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/21/10

TO SPE OF : ART UNIT 2454

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/926,060 Patent No.: 7716344

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

RoChaun Johnson
Certificates of Correction Branch
703-756-1580

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE

2454
Art Unit

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PERKINS COIE, LLP
PATENT – LA
PO BOX 1208
SEATTLE, WA 98111-1208

MAILED

JUN 27 2011

OFFICE OF PETITIONS

In re Application of
Charles Chia-Ming Chuang, et al.
Application No. 11/926,139
Filed: October 29, 2007
Attorney Docket No. 060403.000042

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2011.

The request is **APPROVED**.

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

The request was signed by Aaron Wininger on behalf of all attorneys of record who are associated with customer No. 70416. All attorneys/agents associated with the Customer Number 70416 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on October 29, 2007, does not include one of the above two options.

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 inquires 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: CHARLES CHIA-MING CHUANG
SUITE 6G, FORESIGHT MANSION
NO. 768 XIE TU ROAD
LU WAN DISTRICT
SHANGHAI 200023 CHINA

cc: N-LIGHTEN TECHNOLOGIES
FLOOR 4, BUILDING 17
NO. 1515, GU MEI ROAD
SHANGHAI 200223 CHINA

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
11/926,139	10/29/2007	Charles Chia-ming Chuang	

CONFIRMATION NO. 4050

POWER OF ATTORNEY NOTICE

70416
Perkins Coie LLP
Patent - LA
P.O. Box 1208
Seattle, WA 98111-1208

OC000000048364040

Date Mailed: 06/22/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/15/2011.

- 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
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Alexandria, VA 22313-1450
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Paper No.

MAILED

JUL 28 2011

OFFICE OF PETITIONS

KAMILO FEHER
44685 COUNTRY CLUB DRIVE
EL MACERO CA 95618

In re Application of :
KAMILO FEHER :
Application No. 11/926,144 : DECISION ON PETITION
Filed: October 29, 2007 : PURSUANT TO
Attorney Docket Number: BLUET : 37 C.F.R. § 1.137(A)
05set :
Title: BLUETOOTH,INTERNET, :
MULTIMODE TDMA, GSM, SPREAD :
SPECTRUM, CDMA :

This is a decision on the petition submitted on July 7, 2011 pursuant to 37 C.F.R. § 1.137(a).

This petition is **DISMISSED.**

BACKGROUND

The above-identified application became abandoned for failure to submit an Appeal Brief within two-months of the filing of a Notice of Appeal, filed on October 21, 2010.[1] Accordingly, the above-identified application became abandoned on December 22, 2010. A Notice of Abandonment was mailed on July 6, 2011.

RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. § 1.134: Time period for reply to an Office action:

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.

1 A four-month extension of time was received on December 2, 2010. This submission was not necessary, and the $1730 fee will be refunded to Applicant's credit card in due course.

37 CFR § 1.135: Abandonment for failure to reply within time period:

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

The Applicable Standard

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard:

> In the specialized field of patent law,… the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference.[2]

> [T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense.[3]

> The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was

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2 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

3 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

> arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'[4]
>
> The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency.[5]

The burden of showing the cause of the delay is on the person seeking to revive the application.[6]

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.
>
> In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

As such, the general question asked by the Office is: did petitioner act as a reasonable and prudent person in relation to his most important business?"

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[8]

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4 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

5 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

6 Id.

7 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

8 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[9]

ANALYSIS

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

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

With this petition, Petitioner has included the petition fee and a statement of facts.

Petitioner has met requirement (2) of Rule 1.137(a). The fourth requirement is not applicable, as a terminal disclaimer is not required.[10] The first and third requirements of Rule 1.137(a) have not been satisfied, as will now be pointed out.

Regarding the first requirement, the requirement has not been satisfied because Petitioner did not submit the required reply to the Office action. The required reply is a reply which would have been sufficient to have avoided abandonment, had such reply been timely filed.[11] In order for the application to be revived, Petitioner must submit a reply which satisfies 37 C.F.R. § 1.137(a)(1) (*i.e.*, an Appeal Brief; an amendment that *prima facie* places the application in condition for allowance; a continuing application under 37 C.F.R. §1.53(b); a request for continuing examination under 37 C.F.R. §1.114, if applicable; or a 37 C.F.R. §1.129(a) submission, if applicable). The petition was not accompanied by any of these replies.

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9 Haines v. Quigg, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.
10 See Rule 1.137(d).
11 See M.P.E.P. § 711.03(c).

Regarding the third requirement of Rule 1.137(a), Petitioner has asserted that the present application went abandoned due to "[m]edical conditions, sickness of Applicant Kamilo Feher, health issues of Applicant's family during last six months, and the fact that Applicant is a Senior Citizen-Independent Pro se Inventor."

Medical incapacitation is an avenue by which an applicant can successfully establish that the entire period of a delay was unavoidable. If this is the case, on renewed petition, Petitioner should assert that he was medically incapacitated for the entire period of delay, and thus prevented from attending to his most important business by replying to the Office action in a timely manner or at least filing a petition to revive on an earlier date. A showing of "unavoidable" delay based upon medical incapacitation must establish that Petitioner's incapacitation was of such a nature and degree as to render Petitioner unable to conduct business (e.g., correspond with the Office) during the entire period between December 21, 2010 and July 6, 2011. 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 the above-mentioned period.

Any relevant medical documentation which would support this assertion should be provided as well.

However, if Petitioner chooses to assert that he was medically incapacitated from conducting business with the Office up until the filing of this petition, he must explain why a proper response was not provided with this petition. Petitioner should note that it is the entire period of delay, from the due date for the reply until the filing of a grantable petition, which must be shown to have been unavoidable.

Petitioner is cautioned to avoid submitting confidential information that may contribute to identity theft. Specifically, Petitioner should consider redacting social security, bank account, or credit card numbers from any documents submitted to the USPTO. This type of personal data is never required by the USPTO to support a petition or an application. Petitioner is advised that any information submitted may be disclosed, as a routine use, to the public after either publication of the application, unless a non-publication request is made in the application, or issuance of a patent. Further, a record may be disclosed, subject to the limitations of 37 C.F.R. § 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.

If Petitioner has supplied papers that contain any of the above-identified confidential information that has not been redacted, Petitioner may provide a redacted copy of the same to the Office. If accompanied by a statement that the redacted version is identical to the originally submitted copy, but for the redactions, the redacted copy will be placed into the file and the original copy will be destroyed.

CONCLUSION

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

Alternatively, Petitioner may submit a petition pursuant to 37 C.F.R. § 1.137(b).

Petitioner will note that a third option is to concurrently file both a renewed petition pursuant to Rule 1.137(a) and a petition pursuant to Rule 1.137(b). If the former petition is granted, the fee that is associated with the filing of the latter petition will be refunded to Petitioner.

Any subsequent filing pertaining to the abandonment of this application should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[12] hand-delivery,[13] or facsimile.[14] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[15]

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

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12 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
13 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
14 (571) 273-8300: please note this is a central facsimile number.
15 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

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.[16]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

16 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

IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS NY 10598

MAILED
FEB 07 2011
OFFICE OF PETITIONS

In re Application of :
Balmelli et al. :
Application No. 11/926146 : DECISION ON PETITION
Filing or 371(c) Date: 12/04/2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. IL920040064US2 :

This is a decision on the Petition Under 37 C.F.R. § 1.78(a)(3), filed November 2, 2010, for the benefit of the prior-filed 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[1]. 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

[1] 37 CFR 1.78(a)(3) requires a statement that "the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the da the claim was filed was unintentional." Since the statement appearing in the petition varies from the language required by CFR 1.78(a)(3 the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the stateme appearing in the petition.

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 Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3629 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
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
11/926,146	12/04/2007	3629	1160	IL920040064US2	9	1

CONFIRMATION NO. 4066

CORRECTED FILING RECEIPT

877
IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

Date Mailed: 02/02/2011

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

Applicant(s)

Laurent L. Balmelli, White Plains, NY;
Fausto Bernardini, New York, NY;
Olga Golovenevsky, Haifa, ISRAEL;
Jose Gomes, Douglaston, NY;
Mila Keren, Nesher, ISRAEL;
Abraham Zehavi, Nahariya, ISRAEL;

Power of Attorney: The patent practitioners associated with Customer Number 00877

Domestic Priority data as claimed by applicant

This application is a CON of 11/104,159 04/12/2005 PAT 7,373,343

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

If Required, Foreign Filing License Granted: 03/03/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/926,146**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Requirements Management Semantics Modeling

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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 01 2011

OFFICE OF PETITIONS

LAWRENCE CRUZ
CONAIR CORPORATION
ONE CUMMINGS POINT ROAD
STAMFORD CT 06902

In re Application of :
Cohen, Martin A. :
Application No. 11/926,204 : ON PETITION
Filed: October 29, 2007 :
Attorney Docket No. 1325/U :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 3, 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 an Amendment, (2) the petition fee of $1620.00, and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center AU 3732 for further examination on the merits.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PETER A. HAAS, ESQUIRE
1929 SW 13TH AVENUE
PORTLAND OR 97201

MAILED

OCT 20 2011

OFFICE OF PETITIONS

In re Application of :
Ruston :
Application No. 11/926,248 : ON PETITION
Filed: October 29, 2007 :
Attorney Docket No. WAR-07-REG-01 :
For: DECK CLEANING TOOL

This is a decision on the petition, filed October 4, 2011, under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.

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

Any reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is not a final agency action within the meaning of 5 U.S.C.§ 704.

The above-identified application became abandoned for failure to timely reply to the Notice of Allowance and Fee(s) Due ("Notice"), mailed June 3, 2011, which set a non- extendable three month period for reply. No reply being received, the Office considered this application abandoned on September 4, 2011. A Notice of Abandonment was mailed on September 16, 2011.

Petitioner alleges non-receipt of the Notice of Allowance and Fee(s) Due, mailed June 3, 2011. More specifically, petitioner requests withdrawal of the holding of abandonment because applicant failed to receive notice from practitioner that the application had been allowed and the issue and publication fees were due.

The showing required to establish non-receipt of an Office communication must include:

1. 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.

2. 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.[1]

A review of the record indicates no irregularity in the mailing of the September 3, 2011 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because practitioner admittedly received the Notice. The Notice was mailed to the correspondence address of record, to applicant's representative, and the Notice was received by applicant's representative. Because petitioner was and currently is still represented by registered practitioners (at least according to Office records), the Office must rely on the actions or inactions of the duly authorized and voluntarily chosen representative of the applicant, and the applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962). The Notice was received by applicant's representatives and through a failure of communication between client and representative, a proper reply to the Notice was not timely filed. The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **dismissed**.

Petitioner is encouraged to file a petition to revive. It is noted applicant has submitted a proper reply to the Notice in the form of a completed PTOL-85(b) and the issue and publication fees.

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

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

By 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

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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)

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior 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	11926248
Filing Date	29-Oct-2007
First Named Inventor	Walter Ruston
Art Unit	3723
Examiner Name	DAVID REDDING
Attorney Docket Number	WAR-07-REG-01
Title	DECK CLEANING TOOL

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	/peter a haas/
Name	Peter A. Haas
Registration Number	52481

UNITED STATES 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 27,2011

In re Application of :

Walter Ruston

Application No : 11926248

Filed : 29-Oct-2007

Attorney Docket No : WAR-07-REG-01

DECISION ON PETITION

UNDER CFR 1.137(b)

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

The petition is **GRANTED.**

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

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

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

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

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AIR PRODUCTS AND CHEMICALS, INC.
PATENT DEPARTMENT
7201 HAMILTON BOULEVARD
ALLENTOWN PA 18195-1501

AUG 26 2010

In re Application of
WAGNER, GLENN PAUL :
Application No. 11/926,424 :
Filed: October 29, 2007 :
Attorney Docket No.: 07066 USA :

DECISION ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment under 37 CFR §1.181 received in the United States Patent and Trademark Office (USPTO) on May 20, 2010.

The Petition is **GRANTED**.

The application was held abandoned for failure to timely file corrected drawings as required by and within the three-month period set in, the Notice of Allowability mailed January 25, 2010. Corrected drawings were not submitted within the time period for response. Therefore, the application was **properly** held abandoned and the Notice of Abandonment was mailed on May 10, 2010.

Petitioner states that U.S. Patent and Trademark Office mistakenly required corrected drawings on the Notice of Allowability. The drawings filed on January 15, 2010 appear to correct these problems. After consultation with the Examiner, the Office agrees that the drawing requirement was made in error.

Telephone inquires relating to this matter may be directed to the undersigned at 703-756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

MAILED

AUG 10 2011

OFFICE OF PETITIONS

In re Application of
Akio Muraji et al
Application No. 11/926,673
Filed: October 29, 2007
Attorney Docket No. 072424

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 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 July 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]

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

This application is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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.
11/926,748	10/29/2007	Yoshiki YANAGAWA	316159US28	4968

22850 7590 12/23/2010

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
HUFF, MARK F	
ART UNIT	**PAPER NUMBER**
1795	

NOTIFICATION DATE	DELIVERY MODE
12/23/2010	ELECTRONIC

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

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

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

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

DEC 23 2010

wk

Mailed :
In re Application of : DECISION ON
Yanagawa et al. : PETITION
Serial No. 11/926,748 :
Filed: October 29, 2007
For: METHOD FOR PREPARING PHOTORECEPTOR, PHOTORECEPTOR PREPARED BY THE METHOD, AND IMAGE FORMING METHOD AND APPARATUS AND PROCESS CARTRIDGE USING THE PHOTORECEPTOR

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on October 28, 2010 to consider the Information Disclosure Statement (IDS) that was filed on October 27, 2007. A review of the file indicates that the IDS was considered and made of record on November 23, 2010.

DECISION

Accordingly, the petition is **DISMISSED**.

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

James J. Kulbaski
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WALKER DIGITAL MANAGEMENT, LLC
2 HIGH RIDGE PARK
STAMFORD CT 06905

MAILED

JUL 25 2011

OFFICE OF PETITIONS

In re Application of	:	
Walker et al.	:	
Application Number: 11/926,769	:	DECISION ON PETITIONS
Filing or 371(c) Date: 10/29/2007	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket Number: 00-001-1	:	

This is a decision on the petition, styled under 37 CFR 1.78(a)(3), filed on June 7, 2011, which is treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently-filed amendment.

The petitions are **GRANTED.**

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

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

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

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

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3622 for consideration by the examiner of the claim under 35 U.S.C. §§120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Christopher Bottorff
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/926,769	10/29/2007	3622	4670	00-001-1	34	17

CONFIRMATION NO. 4999

22927
WALKER DIGITAL MANAGEMENT, LLC
2 HIGH RIDGE PARK
STAMFORD, CT 06905

CORRECTED FILING RECEIPT

Date Mailed: 07/25/2011

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

Applicant(s)

Jay S. Walker, Ridgefield, CT;
Jose A. Suarez, Fairfield, CT;
T. Scott Case, Wilton, CT;
Michiko Kobayashi, Stamford, CT;
Andrew P. Golden, New York, NY;

Power of Attorney: The patent practitioners associated with Customer Number 22927

Domestic Priority data as claimed by applicant

This application is a DIV of 09/605,818 06/28/2000 PAT 7,627,498
which claims benefit of 60/184,799 02/24/2000

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: 11/16/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/926,769**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SYSTEM FOR UTILIZING REDEMPTION INFORMATION

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 08/11/11

TO SPE OF : ART UNIT 3731

SUBJECT : Request for Certificate of Correction for Appl. No.: 11926903 Patent No.: 7922734

CofC mailroom date: 08/02/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

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.

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

App. 11926903

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Comments: _____

_____

_____

_____

_____

Tom Hughes 3731

Tom Hughes

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

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

MAILED

NOV 10 2010

OFFICE OF PETITIONS

In re Application of :
Edwin J. Hall et al. :
Application No. 11/926,972 : DECISION ON PETITION
Filed: October 29, 2007 :
Attorney Docket No. 07451.0007-05000 :

This is a decision on the petition under 37 CFR 1.59(b), filed September 10, 2010, to expunge information from the above identified application. This is also a decision on the Request for Refund filed on the same date.

The petition to expunge under 37 CFR 1.59 is **dismissed**.

The Request for Refund is **Granted**.

Petitioner requests that the Request for Continued Examination (RCE), filed September 1, 2010 be expunged from the record. Petitioner states the RCE was erroneously filed.

The petition is deficient because there is no statement that:

(B) the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted.

Petitioner is directed to MPEP 724.05(II).

Petitioner requests refund of the $810 fee for the RCE and the $1,110 fee for the three month extension of time. Since the RCE was improperly filed, it would be proper to refund the RCE fee and the three month extension of time filed therewith.

Telephone inquiries concerning this communication 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

K&L Gates LLP
P.O. Box 1135
CHICAGO IL 60690

MAILED

FEB 21 2012

OFFICE OF PETITIONS

In re Application of	:	
Dennis K. Mead	:	
Application No. 11/927,047	:	DECISION GRANTING PETITION
Filed: October 29 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3718611-03904	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, February 17, 2012 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 24, 2012 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3714 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[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

MICHAEL E. BUCHTEL
2467 NORSE AVENUE
COSTA MESA, CA 92627

MAILED

JUL 05 2011

OFFICE OF PETITIONS

In ré Application of :
Michael E. BUCHTEL :
Application No. 11/927,142 : DECISION ON PETITION
Filed: October 29, 2007 : UNDER 37 CFR 1.181
Attorney Docket No. :

This is in response to the communication, filed February 23, 2011, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

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

On October 1, 2010, the Office mailed a Notice of Allowance and Fee(s) Due Office action, which set a three month shortened statutory period to reply. The application became abandoned on January 2, 2011, for failure to submit a timely response to the Notice of Allowance and Fee(s) Due. On January 18, 2011, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to incorrect information he received from the Office. Specifically, petitioner states that "he contacted the patent office to clarify that statement on Notice of Allowance and Fee(s) Due under HOW TO REPLY TO THIS NOTICE: 1.B. "If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B-Fee(s) Transmittal and pay the PUBLICATION FEE if required) and ½ the ISSUE FEE shown above." Petitioner goes on to state that he "was told by a USPTO representative that yes, petitioner only had to submit half of the ISSUE FEE of $755 and that is what petitioner did."

It is the responsibility of the petitioner to ensure timely payment of fees when due, and to follow the instructions provided on the PTOL-85 regarding SMALL ENTITY. Oral instructions cannot be relied upon as the reason for the requested remedy because all

business should be conducted with the Office in writing. *See 37 CFR 1.2.* Accordingly, the petition to withdraw cannot be granted at this time.

ALTERNATIVE VENUE

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

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

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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

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

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

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

Telephone inquiries related to this decision may be directed to Monica A. Graves at (571) 272-7253.

Thurman K. Page
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICHAEL E. BUCHTEL
2467 NORSE AVE.
COSTA MESA, CA 92627

MAILED
SEP 14 2011
OFFICE OF PETITIONS

In re Application of :
Michael E. Buchtel :
Application No. 11/927,142 : ON PETITION
Filed: October 29, 2007 :
Attorney Docket No.: None :

This is a decision in response to the renewed petition, filed August 17, 2011, under the provisions of 37 CFR 1.181 to withdraw the holding of abandonment.

The application became abandoned for failure s to timely pay the issue and publication fees on or before January 3, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed October 1, 2010, which set a statutory period for reply of three (3) months. A Notice of Abandonment was mailed on January 18, 2011. In response on February 23, 2011, a petition under the provisions of 37 CFR 1.181 was filed; however, the petition was dismissed in a decision mailed July 5, 2011. On August 17, 2011, the present petition was filed.

Petitioners argue that the abandonment should be withdrawn since "the total fees were paid in full within the required due dates". Petitioner explains that "Check No. 1099 in the amount of $677.50 was paid on December 22, 2010 within the due date of Jan. 2, 2011 and Check No. 1120 in the amount of 377.50 confirms that payment was received and deposited by the Patent and Trademark on 02-24-2011 well with the March 23, 2011 due date."

Petitioners' argument is not well taken. The issue fee and publication fee were due in full by January 3, 2011 in order to avoid abandonment. In fact, the Notice of Allowance and Fee(s) Due mailed October 1, 2010 specifically states: THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITH THREE MONTHS OF THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE WAIVED. SEE 35 U.S.C. 151..." While the Office concedes that the publication fee and a portion of the issue fee were submitted within the statutory period set in the Notice of October 1, 2010, the balance of the issue fee was not submitted until the filing of the original petition on February 23, 2011, which is after January 3, 2011. Since the due date for submitting the issue fee is set by statute, the due date cannot be extended or waived. Accordingly, the application became abandoned on January 2, 2011.

In view of the above, 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). However, 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).

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 (1) the required reply,[1] unless previously filed; (2) the $810 petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c).

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

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[2]

[1] 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] 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) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 08 2011

OFFICE OF PETITIONS

MICHAEL B. BUCHTEL
2467 NORSE AVE.
COSTA MESA, CA 92627

In re Application of
Michael E. Buchtel
Application No. 11/927,142
Filed: October 29, 2007
Attorney Docket No.: None

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before January 3, 2011, as required by the Notice of Allowance and Fee(s) Due mailed October 1, 2010. It is noted that a partial payment was submitted on December 22, 2010; however, the balance of the issue fees was not paid until February 23, 2011. Accordingly, a Notice of Abandonment was subsequently mailed on January 18, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $755 issue fee and $300 publication fee; (2) the petition fee of $930; and (3) an adequate statement of unintentional delay.

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

Telephone inquires related to this decision may 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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SCHWABE WILLIAMSON & WYATT
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND OR 97204

MAILED

DEC 27 2010

OFFICE OF PETITIONS

In re Application of :
Bill MESSING, et al :
Application No. 11/927,198 : DECISION ON PETITION
Filed: October 29, 2007 : TO WITHDRAW
Attorney Docket No. 114944-157115 : FROM RECORD
:

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

The request is **APPROVED**.

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

The request was signed by Al AuYeung on behalf of all the attorneys of record associated with Customer No. 25943.

The attorneys of record associated with Customer No. 25943 have been withdrawn.

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

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

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

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

cc: BILL MESSING
3614 EAST COLUMBIA STREET
SEATTLE WA 98122

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
11/927,198	10/29/2007	Bill Messing	114944-157115

CONFIRMATION NO. 5667

POWER OF ATTORNEY NOTICE

25943
Schwabe Williamson & Wyatt
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

OC000000045084775

Date Mailed: 12/21/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/30/2010.

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

/dcgoodwyn/

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

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Laboratory Corporation of America Holdings
c/o Kilpatrick Townsend & Stockton LLP
1001 West Fourth Street
Winston-Salem NC 27101

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APR 11 2011

OFFICE OF PETITIONS

In re Application of :
Purvis, et al. :
Application No. 11/927,223 : ON PETITION
Filed: October 29, 2007 :
Atty Docket No. 57618-382769 :

This decision is in response to the Communication Regarding Patent Term Adjustment (PTA) Indicated in Notice of Allowance, filed February 22, 2011. The communication 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 three hundred sixty-four (364) days, not three hundred fifty-nine (359) 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. In addition, this decision addresses the notification of loss of entitlement to small entity status and request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed February 22, 2011.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay

under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

Pursuant to applicants' authorization, 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) is being charged to deposit account no. 11-0855.

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

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[1] For example, if 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.

Regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c): 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**. Pursuant to applicants' authorization, deposit account no. 11-0855 is being charged $655.00.

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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AUG 08 2011

OFFICE OF PETITIONS

In re Patent of Purvis et al. :
Patent No. 7,943,327 :
Issue Date: May 17, 2011 : DECISION ON
Application No. 11/927,223 : REQUEST FOR RECONSIDERATION
Filed: October 29, 2007 : OF
Atty Docket No. 57618-382769 : PATENT TERM ADJUSTMENT

This is a decision on the "Petition for Patent Term Adjustment (PTA) Under 37 C.F.R. § 1.705(d)," filed July 15, 2011. Patentees request that the revised patent term adjustment indicated on the patent be corrected from two hundred forty-four (244) days to three hundred sixty-four (364) days.

The petition is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred sixty-four (364) days.

On May 17, 2011, the above-identified application matured into U.S. Patent No. 7,943,327 with a revised patent term adjustment of 244 days. On July 15, 2011, patentees timely filed the instant petition.

Patentees argue that the patent term adjustment indicated in the patent is incorrect and should be recalculated because the Office should not have charged applicants with a 120 day reduction under 37 CFR 1.704(c)(10) for the filing of a power of attorney, a statement under 3.73(b), and a letter regarding establishment of rights transfer on January 3, 2011, after the mailing of a notice of allowance on November 22, 2010.

A review of the application history reveals patentees are correct. The January 3, 2011 correspondence is **not** a basis for reduction of patent term adjustment pursuant to 37 CFR 1.704(c)(10).

> 37 CFR 1.704(c)(10) provides that:
>
> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

As stated in MPEP 2732:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.
>
> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status

(small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

Applicants filed a power of attorney, a statement under 3.73(b), and a letter regarding establishment of rights transfer on January 3, 2011. The statement under 3.73(b) and the letter regarding establishment of rights transfer were filed to support the power of attorney.

A power of attorney falls within exception (2) listed above. It is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application.

As such, no reduction pursuant to 37 CFR 1.704(c)(10) is warranted in connection with the filing of the power of attorney, the statement under 3.73(b), and the letter regarding establishment of rights transfer on January 3, 2011. The 120 day reduction is being removed from the patent term adjustment record.

Accordingly, the patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred sixty-four (364) days, which is 417 days of A delay + 5 days of B delay minus 58 days of Applicant delay.

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **three hundred sixty-four (364)** days.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,943,327 B2

DATED : **May 17, 2011** **DRAFT**

INVENTOR(S) : Purvis et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 244 days

Delete the phrase "by 244 days" and insert – by 364 days--

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AUG 02 2010

OFFICE OF PETITIONS

SUGHRUE MION, OLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037

In re Application of :
Rita Steeves, et al. :
Application No. 11/927,235 : DECISION GRANTING PETITION
Filed: October 29, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. A9775 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 31, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 20, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1642 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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WASHINGTON DC 20037

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JUN 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Steeves et al.	:	
Application Number: 11/927,251	:	DECISION ON APPLICATION
Filed: 10/29/2007	:	FOR
Attorney Docket No.	:	PATENT TERM ADJUSTMENT
A9773	:	

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed on May 10, 2011, which is treated as a petition under 37 CFR 1.705(b), requesting correction of the determination of patent term adjustment at the mailing of the notice of allowance.

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

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) at the time of the mailing of the Notice of Allowance is 0 days. A copy of the updated PAIR screen, showing the revised determination, is enclosed.

On February 10, 2011, 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 0 days (133 days of Office delay and 180 days of applicant delay).

The subject application for patent term adjustment was timely filed on May 10, 2011.[1]

[1] A review of Office PALM records indicates that the issue fee was paid on May 10, 2011.

Applicants assert that the period of reduction for applicant delay should be 151 days, rather than 180 days. Specifically, applicants argue that the 29 day reduction pursuant to 37 CFR 1.704(c)(8) in connection with the filing of a supplemental Information Disclosure Statement (IDS) on July 30, 2010, 29 days after the filing of a reply, is not warranted because the supplemental IDS was accompanied by the statement set forth at § 1.704(d).

Applicants' argument has been considered, and is persuasive. A review of the papers filed with the supplemental IDS on July 30, 2010 reveals that a statement in accordance with § 1.704(d) has been included. Accordingly, the 29 day period for reduction for applicant delay is not warranted and has been removed.

The patent term adjustment is updated to 0 days (133 days of Office delay less 151 (180 - 29) days of applicant delay).

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

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

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

/D Wood/

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Updated PAIR Calculation

11/927,251	METHOD OF TARGETING SPECIFIC CELL POPULATIONS USING CELL-BINDING AGENT MAYTANSINOID CONJUGATES LINKED VIA A NON-CLEAVABLE LINKER, SAID CONJUGATES AND METHODS OF MAKING SAID CONJUGATES	A9773	06-21-2011::10:28:34

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 11/927,251

Filing or 371(c) Date:	10-29-2007	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	133
A Delays:	133	PTO Manual Adjustments:	29
B Delays:	0	Applicant Delays:	180
C Delays:	0	Total PTA Adjustments:	0

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO(Days)	APPL (Days)	Start
113	06-21-2011	Adjustment of PTA Calculation by PTO	29		0
79	02-10-2011	Mail Notice of Allowance			0
78	02-02-2011	Notice of Allowance Data Verification Completed			0
77	02-02-2011	Case Docketed to Examiner in GAU			0
76	02-02-2011	Issue Revision Completed			0
75	02-02-2011	Document Verification			0
74	01-25-2011	Allowability Notice			0
73	07-30-2010	Information Disclosure Statement considered			0
72	01-03-2011	Information Disclosure Statement considered			0
69	01-12-2011	case Inherited			0
68	01-12-2011	Case Docketed to Examiner in GAU			0
67	01-03-2011	Reference capture on IDS			0
66	01-03-2011	Electronic Information Disclosure Statement		0	64
65	01-11-2011	Date Forwarded to Examiner			0
64	01-03-2011	Response after Non-Final Action		61	58
63	01-03-2011	Request for Extension of Time - Granted			0
62	01-03-2011	Information Disclosure Statement (IDS) Filed			0
61	08-12-2010	case Inherited			0
60	08-12-2010	Case Docketed to Examiner in GAU			0
59	07-30-2010	Information Disclosure Statement (IDS) Filed		29	50
58	08-03-2010	Mail Non-Final Rejection			0
57	07-30-2010	Information Disclosure Statement (IDS) Filed			0
56	07-30-2010	Non-Final Rejection			0
55	07-15-2010	Information Disclosure Statement considered			0
54	07-15-2010	Reference capture on IDS			0
53	07-15-2010	Information Disclosure Statement (IDS) Filed			0
52	07-15-2010	Information Disclosure Statement (IDS) Filed			0
51	07-08-2010	Date Forwarded to Examiner			0
50	07-01-2010	Amendment after Final Rejection			0
49	07-02-2010	Correspondence Address Change			0
48	06-02-2010	Electronic Review			0
47	06-01-2010	Email Notification			0
46	06-01-2010	Mail Final Rejection (PTOL - 326)			0
45	05-25-2010	Final Rejection			0
43	09-21-2009	Information Disclosure Statement considered			0
42	02-26-2010	Oath or Declaration Filed (Including Supplemental)			0
41	02-26-2010	Oath or Declaration Filed (Including Supplemental)			0
40	02-26-2010	Oath or Declaration Filed (Including Supplemental)			0
39	02-26-2010	Oath or Declaration Filed (Including Supplemental)			0
38	03-23-2010	Date Forwarded to Examiner			0

37	02-26-2010	Response after Non-Final Action		90	32
36	02-26-2010	Request for Extension of Time - Granted			0
34	09-21-2009	Information Disclosure Statement (IDS) Filed			0
33	09-21-2009	Information Disclosure Statement (IDS) Filed			0
32	08-28-2009	Mail Non-Final Rejection			0
31	08-27-2009	Non-Final Rejection			0
30	10-29-2007	Information Disclosure Statement considered			0
29	11-05-2008	Information Disclosure Statement considered			0
28	07-07-2009	Date Forwarded to Examiner			0
27	06-11-2009	Response to Election / Restriction Filed			0
26	05-11-2009	Mail Restriction Requirement	133		0.5
25	05-08-2009	Restriction/Election Requirement			0
24	11-05-2008	Reference capture on IDS			0
23	11-05-2008	Information Disclosure Statement (IDS) Filed			0
21	11-05-2008	Information Disclosure Statement (IDS) Filed			0
20	07-17-2008	PG-Pub Issue Notification			0
19	10-29-2007	Reference capture on IDS			0
18	10-29-2007	Information Disclosure Statement (IDS) Filed			0
17	06-02-2008	IFW TSS Processing by Tech Center Complete			0
16	06-02-2008	Case Docketed to Examiner in GAU			0
15	04-21-2008	Application Dispatched from OIPE			0
14	04-09-2008	Sent to Classification Contractor			0
13	04-09-2008	Filing Receipt - Updated			0
12	04-09-2008	Application Is Now Complete			0
11	03-28-2008	Additional Application Filing Fees			0
10	03-28-2008	Applicant has submitted new drawings to correct Corrected Papers problems			0
9	01-28-2008	Corrected Paper			0
8	01-28-2008	Filing Receipt			0
7	01-18-2008	Cleared by L&R (LARS)			0
6	11-05-2007	Referred to Level 2 (LARS) by OIPE CSR			0
5	11-05-2007	CASE CLASSIFIED BY OIPE			0
4	11-02-2007	IFW Scan & PACR Auto Security Review			0
2	10-29-2007	Information Disclosure Statement (IDS) Filed			0
1	10-29-2007	Initial Exam Team nn			0
0.5	10-29-2007	Filing date			0

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GREG GOSHORN, P.C.
9600 ESCARPMENT
SUITE 745-9
AUSTIN TX 78749

MAILED

APR 20 2011

OFFICE OF PETITIONS

In re Application of :
Daiju Nakano et al :
Application No. 11/927,291 : DECISION ON PETITIONS
Filed: October 29, 2007 :
Attorney Docket No. JP920030124US3 :

This is a decision on the petition filed January 28, 2011, which is being treated as a petition under 37 CFR 1.78(a)(3), 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. This is also being treated as a petition under 37 CFR 1.55(c) to correct the filing date of the prior-filed foreign application set forth in the Application Data Sheet (ADS) filed with the petition.

The petitions are **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.

As to 37 CFR 1.55(c):

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

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6))**;
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petitions are not in compliance with the below:

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).

Additionally, petitioner should note that the foreign priority data need not be included in the amendment to the specification, the data was provided in the ADS submitted with the petition. Note MPEP 201.14.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and under 37 CFR 1.55(c) to correct the above matters are required.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web 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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CANTOR COLBURN LLP-IBM YORKTOWN
20 CHURCH STREET
22ND FLOOR
HARTFORD, CT 06103

MAILED
JUN 07 2011
OFFICE OF PETITIONS

In re Application of :
Daiju Nakano et al :
Application No. 11/927,291 : DECISION ON PETITION
Filed: October 29, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. JP920030124US3 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 12, 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 amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37

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

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

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

This application is being forwarded to Technology Center Art Unit 2629 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
11/927,291	10/29/2007	2629	1030	JP920030124US3	20	3

CONFIRMATION NO. 5807

CORRECTED FILING RECEIPT

48915
CANTOR COLBURN LLP-IBM YORKTOWN
20 Church Street
22nd Floor
Hartford, CT 06103

Date Mailed: 06/06/2011

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

Applicant(s)

Daiju Nakano, Saqamihara-shi, JAPAN;
Yoshitami Sakaquchi, Kanagawa-ken, JAPAN;

Power of Attorney: The patent practitioners associated with Customer Number 48915

Domestic Priority data as claimed by applicant

This application is a DIV of 11/515,985 09/05/2006 PAT 7,317,326
which is a DIV of 10/848,318 05/18/2004 PAT 7,106,089

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 2003-142972 05/21/2002

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: 11/28/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/927,291**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

INSPECTION DEVICE AND INSPECTION METHOD FOR ACTIVE MATRIX PANEL, AND MANUFACTURING METHOD FOR ACTIVE MATRIX ORGANIC LIGHT EMITTING DIODE PANEL

Preliminary Class

345

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

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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

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-3-10

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/427292 Patent No.: 7683854

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

FOR IFW FILES: Should Foreign Priority Data be approved

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

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

FOR PAPER FILES:

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

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

Ennis Young LIE
Randolph Sq. Ste 9D62A
703-756-1542

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

RICHARD HJERPE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE Richard Hjerpe ART UNIT 2629

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Washington DC 20037

MAILED
APR 18 2012
OFFICE OF PETITIONS

In re Application of	:	
Steeves et al.	:	
Application Number: 11/927,314	:	DECISION ON APPLICATION
Filed: 10/29/2007	:	FOR
Attorney Docket No. A9772	:	PATENT TERM ADJUSTMENT

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed on March 15, 2012, which is treated as a petition under 37 CFR 1.705(b), requesting correction of the determination of patent term adjustment at the mailing of the notice of allowance.

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

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) at the time of the mailing of the Notice of Allowance is 0 days. A copy of the updated PAIR screen, showing the revised determination, is enclosed.

On February 14, 2012, 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 0 days (232 days of Office delay and 522 days of applicant delay).

The subject application for patent term adjustment was timely filed on March 15, 2012.[1]

Applicants assert that the period of reduction for applicant delay should be 493 days, rather than 522 days. Specifically,

[1] A review of Office PALM records indicates that the issue fee has not yet been paid.

applicants argue that the 29 day reduction pursuant to 37 CFR 1.704(c)(8) in connection with the filing of a supplemental Information Disclosure Statement (IDS) on July 30, 2010, 29 days after the filing of a reply, is not warranted because the supplemental IDS was accompanied by the statement set forth at § 1.704(d).

Applicants' argument has been considered, and is persuasive. A review of the papers filed with the supplemental IDS on July 30, 2010 reveals that a statement in accordance with § 1.704(d) has been included. Accordingly, the 29 day period for reduction for applicant delay is not warranted and has been removed.

The patent term adjustment is updated to 0 days (232 days of Office delay less 493 (522 - 29) days of applicant delay).

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Updated PAIR Calculation

11/927,314	METHOD OF TARGETING SPECIFIC CELL POPULATIONS USING CELL-BINDING AGENT MAYTANSINOID CONJUGATES LINKED VIA A NON-CLEAVABLE LINKER, SAID CONJUGATES AND METHODS OF MAKING SAID CONJUGATES	A9772	04-17-2012::12:16:01

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 11/927,314

Filing or 371(c) Date:	10-29-2007	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	232
A Delays:	232	PTO Manual Adjustments:	29
B Delays:	0	Applicant Delays:	522
C Delays:	0	Total PTA Adjustments:	0

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO(Days)	APPL (Days)	Start
135	04-17-2012	Adjustment of PTA Calculation by PTO	29		0
123	02-14-2012	Mail Notice of Allowance	99		107
122	02-09-2012	Office Action Review			0
121	02-09-2012	Office Action Review			0
120	02-09-2012	Issue Revision Completed			0
119	02-09-2012	Document Verification			0
118	02-09-2012	Notice of Allowance Data Verification Completed			0
117	02-09-2012	Case Docketed to Examiner in GAU			0
116	02-08-2012	Examiner's Amendment Communication			0
115	02-08-2012	Allowability Notice			0
113	01-19-2012	Information Disclosure Statement considered			0
112	01-19-2012	Reference capture on IDS			0
111	01-19-2012	Information Disclosure Statement (IDS) Filed		196	107
110	01-19-2012	Information Disclosure Statement (IDS) Filed			0
109	07-12-2011	Date Forwarded to Examiner			0
108	07-07-2011	RCE- AF Processed			0
107	07-07-2011	Request for Continued Examination (RCE)		73	79
106	07-12-2011	Disposal for a RCE / CPA / R129			0
105	07-07-2011	Request for Extension of Time - Granted			0
104	07-07-2011	Workflow - Request for RCE - Begin			0
103	06-15-2011	Email Notification			0
102	06-15-2011	Mail Advisory Action (PTOL - 303)			0
101	06-09-2011	Office Action Review			0
100	06-09-2011	Advisory Action (PTOL-303)			0
99	02-10-2011	Information Disclosure Statement considered			0
98	02-17-2011	Information Disclosure Statement considered			0
97	05-06-2011	Information Disclosure Statement considered			0
96	06-02-2011	Oath or Declaration Filed (Including Supplemental)			0
95	06-02-2011	Rule 47 / 48 Correction of Inventorship Papers Filed			0
94	06-02-2011	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
93	06-02-2011	New or Additional Drawing Filed			0
92	06-08-2011	Date Forwarded to Examiner			0
91	06-02-2011	Amendment after Final Rejection			0
90	06-02-2011	Request for Extension of Time - Granted			0
89	05-06-2011	Information Disclosure Statement (IDS) Filed			0
88	05-06-2011	Information Disclosure Statement (IDS) Filed			0
87	02-17-2011	Information Disclosure Statement (IDS) Filed			0
86	02-17-2011	Information Disclosure Statement (IDS) Filed			0
84	02-17-2011	Information Disclosure Statement (IDS) Filed			0
83	02-10-2011	Information Disclosure Statement (IDS) Filed			0

82	02-10-2011	Information Disclosure Statement (IDS) Filed		0
81	01-25-2011	Electronic Review		0
80	01-25-2011	Email Notification		0
79	01-25-2011	Mail Final Rejection (PTOL - 326)		0
78	01-20-2011	Final Rejection		0
77	01-04-2011	Information Disclosure Statement considered		0
74	01-12-2011	case Inherited		0
73	01-12-2011	Case Docketed to Examiner in GAU		0
72	01-04-2010	Information Disclosure Statement (IDS) Filed		0
71	01-07-2011	Date Forwarded to Examiner		0
70	01-04-2011	Response after Non-Final Action	60	65
69	01-04-2011	Request for Extension of Time - Granted		0
68	01-04-2011	Information Disclosure Statement (IDS) Filed		0
67	08-12-2010	case Inherited		0
66	08-12-2010	Case Docketed to Examiner in GAU		0
65	08-05-2010	Mail Non-Final Rejection		0
64	07-30-2010	Information Disclosure Statement (IDS) Filed	29	54
63	08-02-2010	Non-Final Rejection		0
62	07-30-2010	Information Disclosure Statement considered		0
61	07-30-2010	Information Disclosure Statement (IDS) Filed		0
60	07-15-2010	Information Disclosure Statement considered		0
59	07-15-2010	Reference capture on IDS		0
58	07-15-2010	Information Disclosure Statement (IDS) Filed		0
57	07-15-2010	Information Disclosure Statement (IDS) Filed		0
56	07-01-2010	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received		0
55	07-08-2010	Date Forwarded to Examiner		0
54	07-01-2010	Amendment after Final Rejection		0
53	07-02-2010	Correspondence Address Change		0
52	06-09-2010	Email Notification		0
51	06-09-2010	Mail Examiner Interview Summary (PTOL - 413)		0
50	05-27-2010	Examiner Interview Summary Record (PTOL - 413)		0
49	06-01-2010	Electronic Review		0
48	06-01-2010	Email Notification		0
47	06-01-2010	Mail Final Rejection (PTOL - 326)		0
46	05-26-2010	Final Rejection		0
45	05-24-2010	Information Disclosure Statement (IDS) Filed	87	35
44	05-24-2010	Information Disclosure Statement considered		0
42	05-24-2010	Information Disclosure Statement (IDS) Filed		0
41	09-21-2009	Information Disclosure Statement considered		0
40	02-26-2010	Oath or Declaration Filed (Including Supplemental)		0
39	02-26-2010	Oath or Declaration Filed (Including Supplemental)		0
38	02-26-2010	Oath or Declaration Filed (Including Supplemental)		0
37	02-26-2010	Oath or Declaration Filed (Including Supplemental)		0
36	03-23-2010	Date Forwarded to Examiner		0
35	02-26-2010	Response after Non-Final Action	77	30
34	02-26-2010	Request for Extension of Time - Granted		0
32	09-21-2009	Information Disclosure Statement (IDS) Filed		0
31	09-21-2009	Information Disclosure Statement (IDS) Filed		0
30	09-11-2009	Mail Non-Final Rejection		0
29	09-11-2009	Non-Final Rejection		0
28	11-05-2008	Information Disclosure Statement considered		0
27	10-29-2007	Information Disclosure Statement considered		0

26	07-28-2009	Date Forwarded to Examiner		0
25	06-11-2009	Response to Election / Restriction Filed		0
24	05-11-2009	Mail Restriction Requirement	133	0.5
23	05-08-2009	Restriction/Election Requirement		0
22	11-05-2008	Reference capture on IDS		0
21	11-05-2008	Information Disclosure Statement (IDS) Filed		0
19	11-05-2008	Information Disclosure Statement (IDS) Filed		0
18	06-19-2008	PG-Pub Issue Notification		0
17	10-29-2007	Reference capture on IDS		0
15	05-28-2008	IFW TSS Processing by Tech Center Complete		0
14	05-28-2008	Case Docketed to Examiner in GAU		0
13	10-29-2007	Information Disclosure Statement (IDS) Filed		0
12	10-29-2007	Information Disclosure Statement (IDS) Filed		0
11	03-24-2008	Application Dispatched from OIPE		0
10	02-04-2008	Sent to Classification Contractor		0
9	02-04-2008	Filing Receipt		0
8	02-04-2008	Application Is Now Complete		0
7	01-18-2008	Cleared by L&R (LARS)		0
6	11-05-2007	Referred to Level 2 (LARS) by OIPE CSR		0
5	11-05-2007	CASE CLASSIFIED BY OIPE		0
4	11-02-2007	IFW Scan & PACR Auto Security Review		0
2	10-29-2007	Information Disclosure Statement (IDS) Filed		0
1	10-29-2007	Initial Exam Team nn		0
0.5	10-29-2007	Filing date		0

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Paper No.

FOGG & POWERS LLC
5810 W 78TH STREET
SUITE 100
MINNEAPOLIS MN 55439

MAILED
MAY 17 2011
OFFICE OF PETITIONS

In re Patent No. 7,881,181	:	
Dapper et al.	:	
Issue Date: February 1, 2011	:	DECISION ON APPLICATION
Application No. 11/927,428	:	FOR
Filed: October 29, 2007	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 100.070US127	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d): REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed April 1, 2011, requesting reinstatement of part of the patent term which was reduced pursuant to 37 C.F.R. § 1.704(a). In effect, patentee requests reconsideration of the initial determination of patent term adjustment under 35 U.S.C. 154(b) of 476 days.

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

Preliminarily, it is noted that this issue is not untimely raised under 37 CFR 1.705(d). Specifically, on September 22, 2010, the Office mailed a 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 476 days. This determination did not include the reduction of 58 days associated with the supplemental response filed September 15, 2010 (or of course the subsequently accrued 95 days of Office delay and the 16 days of applicant delay). This 58-day reduction first appeared as part of the revised patent term adjustment indicated on the patent. As such, it cannot be concluded that this request raises issues that could have been raised under 37 CFR 1.705(b). Accordingly, it is not appropriate to dismiss this petition as untimely filed.

Consideration now turns to the merits of this request. On February 1, 2011, the application matured into U.S. Patent No. 7,881,181, with a revised patent term adjustment of 497 days. On April 1, 2011, patentees timely submitted this request for reconsideration of the revised patent term adjustment. Patentees dispute the period of reduction of 58 days associated with the filing of a supplemental response on September 15, 2010. Patentees contend that this response was expressly requested by the examiner and as such, no reduction is warranted.

The record has been reviewed and patentees are correct. 37 CFR 1.704(c) provides, in pertinent part, that:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (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 record supports a conclusion that the paper filed September 15, 2010 was expressly requested by the examiner within the meaning of 37 CFR 1.704(c)(8). Accordingly, the period of reduction of 58 days is not warranted and is being removed.

In view thereof, the patent should have issued with a revised patent term adjustment of five hundred fifty-five (555) days (476 days of A delay + 95 days of B delay - 16 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.
The application is being forwarded to the 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 FIVE HUNDRED FIFTY-FIVE (555) days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,881,181 B2

DATED : **February 1, 2011** **DRAFT**

INVENTOR(S) : Dapper 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 497 days

Delete the phrase "by 497 days" and insert – by 555 days--

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Paper No.

FOGG & POWERS LLC
5810 W 78TH STREET
SUITE 100
MINNEAPOLIS MN 55439

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DEC 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Geile et al.	:	DECISION ON
Application No. 11/927,481	:	APPLICATION FOR
Filed: 10/29/2007	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
100.070US135	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b): REQUEST FOR REINSTATEMENT OF REDUCED TERM" filed on October 4, 2010. Applicants request that the Patent Term Adjustment for the above-identified patent be increased by 26 days from 447 days to 473 days.

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

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is FOUR HUNDRED SEVENTY-THREE (473) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 22, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 447 days (473 days of Office delay less 26 days of applicant delay). The subject application for patent term adjustment was timely filed on October 4, 2010.[1]

Applicants dispute the reduction of 26 days for the filing of an supplemental amendment filed on August 11, 2010, 26 days after the day after the date a reply was filed, July 16, 2010.

[1] Office PALM records indicate that the issue fee has not yet been paid.

Applicants contend that the supplemental amendment was expressly requested by the examiner.

37 CFR 1.704(c)(8) provides that the filing of a supplemental reply, other than one expressly requested by the examiner, constitutes a failure to engage in reasonable efforts to conclude processing or examination.

The record has been reviewed and it is concluded that the response filed on August 11, 2010, was expressly requested by the examiner within the meaning of 37 CFR 1.704(c)(8). Accordingly, the 26 day reduction is not warranted and will be removed.

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

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance is revised to 473 days (473 days of PTO delay, reduced by 0 days of Applicant delay).

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

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

/D Wood/

Douglas Wood
Senior Petitions Attorney
Office of Petitions

Encl: Revised PAIR Calculation

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 11/927,481

Filing or 371(c) Date:	10-29-2007	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	473
A Delays:	473	PTO Manual Adjustments:	26
B Delays:	0	Applicant Delays:	26
C Delays:	0	Total PTA Adjustments:	473

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO(Days)	APPL (Days)	Start
59	12-06-2010	Adjustment of PTA Calculation by PTO	52		0
58	12-06-2010	Adjustment of PTA Calculation by PTO		26	0
48	09-22-2010	Mail Notice of Allowance			0
47	09-17-2010	Issue Revision Completed			0
46	09-17-2010	Document Verification			0
45	09-17-2010	Notice of Allowance Data Verification Completed			0
44	09-17-2010	Notice of Allowability			0
43	08-18-2010	Date Forwarded to Examiner			0
42	08-11-2010	Supplemental Response		26	37
41	07-16-2010	Information Disclosure Statement considered			0
40	07-16-2010	Electronic Information Disclosure Statement			0
39	07-16-2010	Rule 47 / 48 Correction of Inventorship Papers Filed			0
38	07-18-2010	Date Forwarded to Examiner			0
37	07-16-2010	Response to Election / Restriction Filed			0
36	07-16-2010	Request for Extension of Time - Granted			0
35	07-16-2010	Information Disclosure Statement (IDS) Filed			0
34	04-12-2010	Preliminary Amendment			0
33	04-16-2010	Electronic Review			0
32	04-16-2010	Email Notification			0
31	04-16-2010	Mail Restriction Requirement	473		-1
30	04-13-2010	Requirement for Restriction / Election			0
28	03-09-2010	Preliminary Amendment			0
27	09-08-2009	Information Disclosure Statement considered			0
21	10-06-2009	Case Docketed to Examiner in GAU			0
20	09-08-2009	Information Disclosure Statement (IDS) Filed			0
19	09-02-2009	Case Docketed to Examiner in GAU			0
18	08-11-2009	Case Docketed to Examiner in GAU			0
17	08-06-2009	Case Docketed to Examiner in GAU			0
16	08-06-2009	Decision Made by Classification Division			0
15	08-06-2009	Request for Classification Division Decision			0
14	07-27-2009	Transfer Inquiry to GAU			0
13	11-19-2008	Miscellaneous Incoming Letter			0
12	09-19-2008	IFW TSS Processing by Tech Center Complete			0
11	06-24-2008	Email Notification			0
10	06-23-2008	Application Dispatched from OIPE			0
9	06-24-2008	Filing Receipt			0
8	06-24-2008	Application Is Now Complete			0
7	03-14-2008	Email Notification			0
6	03-13-2008	PG-Pub Issue Notification			0
5	10-29-2007	PGPubs early publication request			0
4	11-07-2007	Cleared by OIPE CSR			0

3	10-30-2007	IFW Scan & PACR Auto Security Review	0
2	10-29-2007	PGPubs early publication request	0
1	10-29-2007	Initial Exam Team nn	0

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MEREDITH & KEYHANI, PLLC
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NEW YORK NY 10017

MAILED

MAR 24 2011

OFFICE OF PETITIONS

In re Application of
Eagan et al.
Application No. 11/927,489
Filed: October 29, 2007
Attorney Docket No. 233-002

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 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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MAR 25 2011

OFFICE OF PETITIONS

MEREDITH & KEYHANI, PLLC
330 MADISON AVE.
6TH FLOOR
NEW YORK NY 10017

In re Application of
Singh et al.
Application No. 11/927,499
Filed: October 29, 2007
Attorney Docket No. 233-003

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 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 Notice of Allowance and Fees Due was mailed January 3, 2011 in the above-identified application 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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MAR 25 2011

OFFICE OF PETITIONS

In re Application of :
Singh et al. :
Application No. 11/927,510 : DECISION ON PETITION
Filed: October 29, 2007 TO WITHDRAW FROM RECORD
Attorney Docket No. 233-004 :
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 14, 2011.

The request is **APPROVED**.

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

The request was signed by Fariba Sirjani on behalf of himself. Accordingly, Fariba Sirjani associated with the above-identified application has been withdrawn as attorney of record in the above-identified application.

The correspondence address of record remains unchanged.

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

Currently, there is an outstanding Office action mailed March 8, 2011 that requires a reply.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Fariba Sirjani
925 Delaware Avenue, Apt 9C
Buffalo, NY 14209

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MAR 25 2011

OFFICE OF PETITIONS

In re Application of :
Singh et al. :
Application No. 11/927,519 : DECISION ON PETITION
Filed: October 29, 2007 TO WITHDRAW FROM RECORD
Attorney Docket No. 233-005 :
:

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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1900 University Avenue
Suite 200
East Palo Alto CA 94303

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Application of :
Felix HAUSCH et al. : DECISION GRANTING PETITION
Application No. 11/927,536 : UNDER 37 CFR 1.181
Filed: 29 October 2007 :
Atty. Docket No.: STAN-258CON3 (S01-271)

This is a decision on the petition, filed 12 January 2011 under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application

The petition is **DISMISSED**.

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

The Application became abandoned for failure to reply in a timely manner to the non-final Office action mailed 23 June 2010 ("outstanding Office action"), which set a shortened statutory reply period of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application thus became abandoned on 24 September 2010, with notification mailed 11 January 2011.

A grantable petition under 37 CFR 1.181 based upon lack of receipt of an Office action requires: (1) a statement from the petitioner that the Office communication was not received, (2) an attestation that a search of the file jacket and docket records indicates the Office communication was not received, and (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received. The present petition lacks item (2). Notably, the petitioner has failed to attest that a search of the file jacket was performed and the Office communication not found.

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.**

General inquiries relating to this decision should be directed to Robert DeWitty (571-272-6051)

David Bucci
Petitions Examiner
Office of Petitions

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Stanford University Office of Technology Licensing
Bozicevic, Field & Francis LLP
1900 University Avenue
Suite 200
East Palo Alto CA 94303

MAILED

JUN 15 2011

OFFICE OF PETITIONS

In re Application of :
Felix HAUSCH et al. : ON PETITION
Application No. 11/927,536 :
Filed: 29 October 2007 :
Atty. Docket No.: STAN-258CON3 (S01-271)

This is a decision on the renewed petition under 37 CFR 1.181, filed May 20, 2011, requesting withdrawal of the holding of abandonment in 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 23 June 2010 ("outstanding Office action"), which set a shortened statutory reply period of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application thus became abandoned on 24 September 2010, with notification mailed 11 January 2011.

In the renewed petition, Petitioner has provided evidence and assertion of the Office action not being received.

In the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not, in fact, received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received ; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received must be attached to and referenced in the practioner'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 (16 November 1993).

As the instant petition satisfies the indicated requirements, the holding of abandonment is withdrawn and the application is restored to pending status.

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

The application file will be referred to Technology Center Art Unit 1654 remailing the Office action of September 23, 2010. The period for reply will run from the mailing date of the Office action.

Rajnesh Krishnamurthy

for David Bucci
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/927,615	10/29/2007	Glenn T. Huang	17701-DIV2 (OCU)	6242

51957 7590 07/12/2011

ALLERGAN, INC.
2525 DUPONT DRIVE, T2-7H
IRVINE, CA 92612-1599

EXAMINER	
ZISKA, SUZANNE E	

ART UNIT	PAPER NUMBER
1619	

NOTIFICATION DATE	DELIVERY MODE
07/12/2011	ELECTRONIC

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

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

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

patents_ip@allergan.com

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Commissioner for Patents
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JUN 30 2011

In re Application of	:	
Glenn T. Huang, et al.	:	NOTICE OF WITHDRAWAL
Serial No. 11/927615	:	FROM ISSUE
Filed: October 29, 2007	:	UNDER 37 CFR 1.313(b)
For: SUSTAINED RELEASE INTRAOCULAR	:	
IMPLANTS AND METHODS FOR	:	
PREVENTING RETINAL DYSFUNCTION	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to a mistake on the part of the Office. See 37 CFR 1.313(b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to the SPE, David Blanchard, at (571) 272-0827.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Irem Yucel, Director
Technology Center 1600

ALLERGAN, INC.
2525 DUPONT DRIVE, T2-7H
IRVINE, CA 92612-1599

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Paper No.

DISCUS DENTAL, LLC
8550 HIGUERA STREET
CULVER CITY CA 90232

MAILED

APR 05 2011

OFFICE OF PETITIONS

In re Application of :
R. Eric Montgomery : DECISION ON PETITION
Application No. 11/927,636 :
Filed: October 29, 2007 :
Atty Docket No. P1088US13 :

This is in response to the Petition to Withdraw Holding of Abandonment under 37 CFR 1.181 filed January 21, 2011.

The petition is **DISMISSED**.

Any request for reconsideration pursuant to § 1.181 must be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. See 37 CFR §1.181(f). Extensions of time under §1.136(a) are not permitted.

The above-identified application became abandoned for failure to file a response to the non-final Office action mailed June 16, 2010. This Office communication set a three-month shortened statutory period for reply, with extensions of time obtainable. under § 1.136(a). As no extension was obtained and no reply received, the application became abandoned effective September 17, 2010. A courtesy Notice of Abandonment was mailed on December 22, 2010.

In response, applicant filed the instant petition. Applicant states that he has conducted a search of the records, including the file wrapper, and did not locate the Office action. In support of the petition, applicant submits a copy of the Case Summary Report from the applicant's docket, displaying all the entries made for this application, including any received Office action. In addition, applicant describes the docketing system.

A review of the application image file wrapper reveals no irregularities in the mailing of the non-final Office action mailed June 16, 2010. Thus, there is a strong presumption that

the correspondence was properly mailed to applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, applicant must submit evidence to overcome this presumption. As stated in MPEP 711.03(c), the following showing is required:

> 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.

Practitioner states that a search of the records of the law firm, including the file wrapper, did not locate the Office action. Practitioner supplies a copy of the docket record for this application.

However, the showing is not sufficient. Practitioner says he searched the docketing records and that his review confirms that the Notice was not received. Further, he describes the system used for recording an Office action received at the correspondence address of record with the USPTO. Further, practitioner states that he searched the file jacket of this application.

However, practitioner does not provide a copy of the master docket or a statement that no master docket exists. The required showing of non-receipt requires that the practitioner supply a copy of the master docket 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. Practitioner has not explained the absence of a master docket. As quoted from the MPEP above, 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. It is also noted that practitioner should clearly state that the Office communication was not received at the correspondence address of record. Given the deficiencies in the showing, it is concluded that the required showing of non-receipt has not been met.

If applicant cannot provide persuasive evidence of non-receipt of the non-final Office action, applicant may submit a petition to revive pursuant to § 1.137.

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219. To facilitate quick action on any renewed petition, it is recommended that applicants advise the undersigned upon the electronic filing of any further petition.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAY 23 2011

OFFICE OF PETITIONS

Sung Oh
15312 East Valley Boulevard
City of Industry, CA 91746

In re Application of
Sung I. Oh
Application No. 11/927,802
Filed: October 30, 2007
Attorney Docket No. 52204-55

DECISION ON PETITION
TO WITHDRAW FROM
RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40 filed April 22, 2011.

The request is **NOT APPROVED**.

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

The Office will no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (*See* USPTO Form PTO/SB/82). However, 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*[1], 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. Therefore, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

There is an Office action mailed on May 10, 2011, that requires a reply from the applicant.

In view of the above, all future communications from the Office will continue to be directed to the above-listed address unless otherwise notified by the applicant.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Abe Chavez
CLO Systems, LLC
15312 East Valley Blvd.
City of Industry, CA 91746

[1] 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.

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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 05 2010

OFFICE OF PETITIONS

In re Patent No. 7,640,123	:	DECISION ON REQUEST
Ibrahim et al	:	FOR
Issue Date: December 29, 2009	:	RECONSIDERATION OF
Application No. 11/927,853	:	PATENT TERM ADJUSTMENT
Filing Date: October 30, 2007	:	
Attorney Docket No. 18890US01	:	

This is a decision on the petition filed on June 4, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted from five (5) days to eight (8) days.

The petition under 37 CFR 1.705(d) to correct the patent term adjustment is **DISMISSED AS UNTIMELY FILED.**

Patentee is given TWO (2) MONTHS to respond to this decision. No extensions of time will be granted under 37 CFR 1.136(a).

Patentee disputes the two (2) day period of reduction for applicant delay pursuant to 37 CFR 1.704(b) for filing the issue fee on October 26, 2009, three months and two days after the date of mailing of the notice of allowance. Additionally, patentee disputes the thirty (31) day period of reduction for applicant delay pursuant to 37 CFR 1.704(c)(10) for the filing of an amendment under 37 CFR 1.312 on October 26, 2009, after the date of mailing of the notice of allowance.

35 U.S.C. 154(b) provides for patent term adjustment for examination delay. Pursuant to 35 U.S.C. 154(b)(3) and

implementing regulation 37 CFR 1.705(d), any request for reconsideration of the patent term adjustment indicated on the patent must be filed within two (2) months of the date the patent issued and must comply with the requirements of 37 1.705(b)(1) and (b)(2).

On December 9, 2009, the Office mailed the revised 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 was 5 days. This revised determination was based on the periods of reductions for applicant delay of 2 days pursuant to 37 CFR 1.704(b) and 31 days pursuant to 37 CFR 1.704(c)(10).

On December 29, 2009, the application issued as U.S. Patent No. 7,640,123. Patentee did not file a request for reconsideration under 37 CFR 1.705(d) of the revised patent term adjustment regarding the periods of reduction under 37 CFR 1.704(b) or 1.704(c)(10) within two (2) months after the date the patent issued. Rather, patentee filed a REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH* on April 29, 2010, requesting recalculation of the patent term adjustment on the sole basis of the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). On May 4, 2010, the Office mailed a decision granting the request for recalculation and indicating that the patent term adjustment remained 5 days. On June 6, 2010, patentee filed the present petition under 37 CFR 1.705(d) raising the periods of reduction pursuant to 37 CFR 1.704(b) and 1.704(c)(10) for the first time.

As the present request for reconsideration under 37 CFR 1.705(d) was not filed until June 6, 2010, which is over two (2) months after the date the patent issued, it is appropriate to dismiss this petition as untimely filed.

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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POTTER ANDERSON & CORROON LLP
ATTN: JANET E. REED, PH.D.
P.O. BOX 951
WILMINGTON, DE 19899-0951

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of :
Anthony J. Kinney et al :
Application No. 11/927,884 : DECISION ON PETITION
Filed: October 30, 2007 : TO WITHDRAW
Attorney Docket No. BB1594 USNA : 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 April 25, 2011.

The request is **APPROVED**.

A review of the file record indicates that W. Murray Spruill: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, W. Murray Spruill has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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HITT GAINES P.C.
P.O. BOX 832570
RICHARDSON TX 75083

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MAR 0 1 2011

OFFICE OF PETITIONS

In re Patent No. 7,810,395 :
Issue Date: October 12, 2010 :
Application No. 11/927,889 : DECISION ON PETITION
Filed: October 30, 2007 :
Attorney Docket No. TOTL-0003 :

This is a decision on the Certificate Of Correction Transmittal Letter, filed October 26, 2010, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

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

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

"Total Wire Corporation, Plano, TX (US)"

to:

--Tea Time Partners, L.P., Rockwall, TX (US)--

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

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

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 submitted with 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. 7,810,395.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 28 2011

OFFICE OF PETITIONS

Paper No.

Morris Bendah
2750 Merced Street
San Leandro CA 94577

In re Application of	:	
Bendah	:	
Application No. 11/928,099	:	DECISION ON PETITION
Filed: October 30, 2007	:	PURSUANT TO
Title: MODULAR CRATE	:	37 C.F.R. § 1.137(A)

This is a decision on the petition submitted on September 21, 2011, pursuant to 37 C.F.R. § 1.137(a).

This petition is **DISMISSED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed January 20, 2011, which set a shortened statutory period for reply of three months. A response was received on April 22, 2011 (which fell on a Friday), however the response was not accompanied by a one-month extension of time under the provisions of 37 C.F.R. § 1.136(a) which was required to make timely the response. Accordingly, the above-identified application became abandoned on April 21, 2011. A notice of abandonment was mailed on August 16, 2011.

Petition fee requirement:

The fee for filing a petition to revive an unavoidably abandoned application under 37 C.F.R. § 1.137(a) is set forth in 37 C.F.R. § 1.17(l) as being $310 for a small entity and $620 for a large entity. With this petition, Petitioner has included $65 towards this fee, and an authorization to charge any fee deficiency to a Deposit Account has not been located in the electronic file.

The payment of the required petition fee in full is a prerequisite to the filing of a petition to revive pursuant to 37 C.F.R. § 1.137. Therefore, consideration of the merits of

the petition before receipt of the filing fee would be premature. See M.P.E.P. § 711.03(c)(III)(B), which sets forth, *in toto*:

> 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 (emphasis added).
>
> 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.

The phrase "unless the petition is filed under [35 U.S.C.] 133 or 151" signifies that petitions to revive filed on the basis of "unavoidable" delay (under 35 U.S.C. 133 or 151) are a subset of petitions to revive filed on the basis of unintentional delay. That is, "unavoidable" delay and "unintentional" delay are not alternatives; "unavoidable" delay is the epitome of "unintentional" delay. Any petition to revive an abandoned application or lapsed patent must meet the minimal "unintentional" delay threshold, and an applicant need only pay the fee specified in 37 CFR 1.17(l) (rather than the fee specified in 37 CFR 1.17(m)) if the petition is also accompanied by an adequate showing 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.

It follows that this petition cannot be considered on the merits.

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

§ 1.137(a), **and should include payment in the amount of $245 ($310 - $65)**. This is not a final agency action within the meaning of 5 U.S.C § 704.

Any subsequent filing pertaining to the abandonment of this application should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[1] hand-delivery,[2] or facsimile.[3] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[4]

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.

Alternatively, Petitioner may wish to consider filing a petition pursuant to 37 C.F.R. § 1.137(b), which carries a significantly lower standard. Should Petitioner wish to file pursuant to 37 C.F.R. § 1.137(b), the associated fee would be $865 ($930 - $65) for a small entity. Petitioner may download information about this petition here: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03c.htm#sect711.03c

Petitioner should note that pursuant to 37 C.F.R. § 1.8(a)(ii), in order for an applicant to receive the benefit of a certificate of mailing, the certificate of mailing must be included with the correspondence. Put another way, a later-executed certificate of mailing cannot be relied upon to establish that a preveniently-mailed article was mailed on a particular date.

Paul Shanoski
Senior Attorney
Office of Petitions

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300: please note this is a central facsimile number.
4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

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MAILED Paper No.

DEC 07 2011

OFFICE OF PETITIONS

Morris Bendah
2750 Merced Street
San Leandro CA 94577

In re Application of :
Bendah :
Application No. 11/928,099 : DECISION ON RENEWED PETITION
Filed: October 30, 2007 : PURSUANT TO
Title: MODULAR CRATE : 37 C.F.R. § 1.137(A)

This is a decision on the renewed petition submitted on November 21, 2011, pursuant to 37 C.F.R. § 1.137(a).

This renewed petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed January 20, 2011, which set a shortened statutory period for reply of three months. A response was received on April 22, 2011 (which fell on a Friday), however the response was not accompanied by a one-month extension of time under the provisions of 37 C.F.R. § 1.136(a) which was required to make timely the response. Accordingly, the above-identified application became abandoned on April 21, 2011. .A notice of abandonment was mailed on August 16, 2011.

RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. § 1.6(a) sets forth, *in toto*:

> Date of receipt and Express Mail date of deposit. Correspondence received in the Patent and Trademark Office is stamped with the date of receipt except as follows:
>
> (1) The Patent and Trademark Office is not open for the filing of correspondence on any day that is a Saturday, Sunday, or Federal holiday within the District of Columbia. Except for correspondence transmitted by facsimile under paragraph (a)(3) of this section, or filed electronically under paragraph (a)(4) of this section, no

> correspondence is received in the Office on Saturdays, Sundays, or Federal holidays within the District of Columbia.
>
> (2) Correspondence filed in accordance with § 1.10 will be stamped with the date of deposit as "Express Mail" with the United States Postal Service.
>
> (3) Correspondence transmitted by facsimile to the Patent and Trademark Office will be stamped with the date on which the complete transmission is received in the Patent and Trademark Office unless that date is a Saturday, Sunday, or Federal holiday within the District of Columbia, in which case the date stamped will be the next succeeding day which is not a Saturday, Sunday, or Federal holiday within the District of Columbia.
>
> (4) Correspondence may be submitted using the Office electronic filing system only in accordance with the Office electronic filing system requirements. Correspondence submitted to the Office by way of the Office electronic filing system will be accorded a receipt date, which is the date the correspondence is received at the correspondence address for the Office set forth in § 1.1 when it was officially submitted.

37 C.F.R. § 1.10(a)(1) sets forth, *in toto*:

> Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS.

PROCEDURAL HISTORY AND ANALYSIS

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

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

An original petition pursuant to 37 C.F.R. § 1.137(a) was filed on September 21, 2011, and was dismissed via the mailing of a decision on September 28, 2011, which indicated that Petitioner submitted $65 towards the $310 fee.

With this petition, Petitioner has included the remainder of the petition fee.

Requirements (1) and (2) of Rule 1.137(a) have been satisfied. The fourth requirement is not applicable, as a terminal disclaimer is not required.[1]

The third requirement of Rule 1.137(a) has not been met, as will now be pointed out.

With this renewed petition, Petitioner has alleged that the "original mailing was done on April 20th 2011," and has included a tracking result e-mail confirmation from the USPS, showing that the package has an "acceptance" date of "04/20/11" in "SAN LEANDRO CA 94577." It is noted that the confirmation indicates that the Label Number is 9405 5102 0079 3658 5420 89. The undersigned has entered this Label Number into the Track and Confirm portion of the USPS' website, and it is noted that the package was sent using the Priority Mail service of the USPS, and not Express Mail service. A copy of a print-out from the USPS website has been included with this decision.

Pursuant to 37 C.F.R. § 1.6(a), correspondence that is "received in the Patent and Trademark Office is stamped with the date of receipt." The relevant communication was received in the Office on April 22, 2011, and the Express Mail exception of 37 C.F.R. §§ 1.6(a)(2) and 1.10(a)(1) does not apply to this mailing due to the fact that it was not sent by the Express Mail service of the USPS, as developed above.

It follows that the Office properly accorded the submission of April 22, 2011 a receipt date of April 22, 2011, and as such, a one-month extension of time was required. As such, the record does not support a finding that the entire period of delay was unavoidable.

CONCLUSION

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

Any subsequent filing pertaining to the abandonment of this application should indicate in a prominent manner that the

1 See 37 C.F.R. § 1.137(d)(1).

attorney handling this matter is Paul Shanoski, and may be submitted by mail,[2] hand-delivery,[3] or facsimile.[4] 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.

Alternatively, Petitioner may wish to consider filing a petition pursuant to 37 C.F.R. § 1.137(b). Unless Petitioner believes that he can successfully assert that the entire period of delay was unavoidable, he may wish to file pursuant to the unintentional standard. Petitioner may download information about these petitions here: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

Petitioner will note that a third option is to concurrently file both a second renewed petition pursuant to Rule 1.137(a) and a petition pursuant to Rule 1.137(b). If the former petition is granted, the fee that is associated with the filing of the latter petition will be refunded to Petitioner.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[5] 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

Encl. Printout of the Track and Confirm portion of the USPS' website

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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 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.

Track & Confirm

11/928,069

GET EMAIL UPDATES PRINT DETAILS

YOUR LABEL NUMBER	SERVICE	STATUS OF YOUR ITEM	DATE & TIME	LOCATION	FEATURES
9405510200793658542089	Priority Mail®	Delivered	April 22, 2011, 10:20 am	ALEXANDRIA, VA 22313	**Expected Delivery By:** April 22, 2011 Delivery Confirmation™
		Arrival at Post Office	April 22, 2011, 10:06 am	ALEXANDRIA, VA 22301	
		Processed through USPS Sort Facility	April 22, 2011, 1:19 am	DULLES, VA 20101	
		Electronic Shipping Info Received	April 21, 2011		
		Processed through USPS Sort Facility	April 20, 2011, 10:44 pm	OAKLAND, CA 94615	
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Paper No.

NIXON PEABODY LLP - PATENT GROUP
1100 CLINTON SQUARE
ROCHESTER NY 14604

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Application of	:	
Andersen et al.	:	DECISION ON
Application No. 11/928,122	:	PETITION
Filed: October 30, 2007	:	
Atty Docket No. 34186/1019	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)) filed April 8, 2011.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed May 13, 2010. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. No reply having been received and no extension of time obtained, the application became abandoned effective August 14, 2010. A courtesy Notice of Abandonment was mailed on March 11, 2011.

On petition, petitioner submitted a Request for Continued Examination (RCE) and submission under §1.114 (in the form of an amendment)(and RCE fee); paid the petition fee; and made the required statement of unintentional delay.

Technology Center AU 1621 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on April 8, 2011.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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MEDTRONIC, INC. (SPINAL)
710 MEDTRONIC PARKWAY
ATTN: LEGAL PATENTS MS: LC340
MINNEAPOLIS, MN 55432-5604

MAILED

JUN 14 2011

OFFICE OF PETITIONS

In re Application of :
James F. Zucherman, et al. :
Application No. 11/928,158 : ON PETITION
Filed: October 30, 2007 :
Docket No.: 31061.153/359/SP00988.231 :

This is a decision on the petition, filed May 2, 2011, requesting the withdrawal of a previously filed terminal disclaimer. The petition is properly being treated under the provisions of 37 CFR 1.182.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing certain petitions. In this instance, the fee required for treatment of this petition is $400.

Since the petition was not accompanied by the required fee, the petition is **DISMISSED**.

It is noted that the terminal disclaimer filed January 27, 2011 was not accepted, since the requisite terminal disclaimer fee was not paid.

However, since the existing TD was a properly filed document, there is no reason to disturb it. To the extent that the existing TD will not be operative, without payment of a terminal disclaimer fee, it simply will not operate.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/928,250	10/30/2007	Elaine Merisko-Liversidge	029318-1637	7092

31049 7590 02/22/2011

Elan Drug Delivery, Inc. c/o Foley & Lardner
3000 K Street, N.W.
Suite 500
Washington, DC 20007-5109

EXAMINER	
SOROUSH, LAYLA	
ART UNIT	PAPER NUMBER
1627	

MAIL DATE	DELIVERY MODE
02/22/2011	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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FEB 2 2 2011

Elan Drug Delivery, Inc. c/o Foley & Lardner
3000 K Street, N.W.
Suite 500
Washington DC 20007-5109

In re Application of:
Merisko-Liversidge et al.
Serial No.: 11/928,250
Filed: October 30, 2007
Attorney Docket No.: **029318-1637**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181, filed February 3, 2011, requesting that the finality of the Office action of August 4, 2010 be withdrawn because it was premature.

BACKGROUND

On December 29, 2009, the examiner mailed a non-final Office action setting a three month statutory limit for reply. At the time of this Office action, claims 1-32 were pending and were rejected. Claims 2, 21and 22 were rejected under 35 USC 112, second paragraph, as indefinite. Claims 1-2, 4-9, 11, 14 and 23-32 were rejected under 35 USC 102(a) as being anticipated by Damascelli et al. Claims 1, 4-7, 10-12, 14 and 23-32 were rejected under 35 USC 102(e) as being anticipated by Ryde et al. (US Pat 6375986). Claims 1, 4-7, 10-12, 14 and 23-32 were rejected under 35 USC 102(e) as being anticipated by Ryde et al. (US Pat 6592903). Claims 10, 12-13 and 18-21 were rejected under 35 USC 103(a) as being unpatentable over Damascelli et al. as applied to claims 1-2, 4-9, 11, 14 and 23-32 above, and further in view of Liversidge et al. Claims 3, 15-17 and 22 were rejected under 35 USC 103(a) as being unpatentable over Damascelli et al. and Liversidge et al. as applied to claims 1-2, 4-14, 18-21 and 23-32 above, and further in view of Clark, EP 0602702 A1, and Jain and, Reed et al. and Hunter. Claims 1-14, and 18-32 were rejected under 35 USC 103(a) as being unpatentable over Clark in view of EP 0602702 A1, Liversidge et al. and Jain. Claims 15-17 were rejected under 35 USC 103(a) as being unpatentable over Clark in view of EP 0602702 A1, Liversidge et al. and Jain as applied to claims 1-14, and 18-32 and further in view of Reed et al. Claims 1, 7, 8, 11, 12-13 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2, 9, 10, 30, 31 and 35 of Application No. 09/337675. Claims 1 and 4-9 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-7, 9-13, 17-24 and 26-33 of Patent No. 6592903. Claims 1 and 4-9 were rejected

on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-7, 9-13, 15-19, 22-29 and 31-34 of Patent No. 6375986.

On May 14, 2010, applicants filed amendments to the claims and arguments traversing the examiner's rejections instituted in the non-final Office action of December 29, 2009.

On August 4, 2010, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this Office action, claims 1 and 4-32 were rejected. Claims 1, 4-9, 11, 14 and 23-32 were rejected under 35 USC 102(a) as being anticipated by Hubbell et al. Claims 10, 12-13 and 18-21 were rejected under 35 USC 103(a) as being unpatentable over Hubbell et al. as applied to claims 1, 4-9, 11, 14 and 23-32 above, and further in view of Liversidge et al. Claims 15-17 and 22 were rejected under 35 USC 103(a) as being unpatentable over Hubbell et al. and Liversidge et al., as applied to claims 1, 4-14, 18-21 and 23-32 above, and further in view of Reed et al., Clark, EP 0602702 A1, and Hunter. Claims 1, 4-14 and 18-32 were rejected under 35 USC 103(a) as being unpatentable over Clark in view of EP 0602702 A1, Liversidge et al., and Jain. Claims 15-17 were rejected under 35 USC 103(a) as being unpatentable over Clark in view of EP 0602702 A1, Liversidge et al. and Jain as applied to claims 1, 4-14, and 18-32 and further in view of Reed et al., Damascelli et al., and Hunter. Claims 1, 4-12, 14-17 and 23-32 are rejected under 35 USC 103(a) as being unpatentable over Ryde et al. (US Pat 6375986) in view of Clark and Hunter. Claims 1, 4-12, 14-17 and 23-32 are rejected under 35 USC 103(a) as being unpatentable over Ryde et al. (US Pat 6592903) in view of Clark and Hunter. Claims 1, 7, 8, 11, 12-13 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2, 9, 10, 30, 31 and 35 of Application No. 09/337675. Claims 1 and 4-9 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-7, 9-13, 17-24 and 26-33 of Patent No. 6592903. Claims 1 and 4-9 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-7, 9-13, 15-19, 22-29 and 31-34 of Patent No. 6375986. The examiner indicated that applicants' amendment necessitated the new grounds of rejection.

On February 3, 2011, applicants submitted an after final amendment including claim amendments.

On February 3, 2011, applicants submitted a Notice of Appeal.

On February 3, 2011, applicants submitted the petition under consideration herein.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition, applicants argue "The citation to Hubbell was not necessitated by Applicants' claim amendments. The previous amendments replaced the genus "angiogenesis inhibitors" with the species "2- methoxyestradiol" that was recited in claim 3. The species of 2-methoxyestradiol

was the basis of the examination in the prior, non-final, Office Action in which the Examiner asserted the following references:

> (1)U.S. Patent No. 5,521,168, "Estrogen metabolites for lowering intraocular pressure" to Clark, which teaches 5 um particles of 2-methoxyestradiol as an angiogenesis inhibitor for lowering intraocular pressure.
> (2) U.S. Published Application No. 2002/0055462, "Use" to Reed, which teaches the use of conventional crystalline 2-methoxyestradiol and paclitaxel in combination for decreasing TNFa~.

Accordingly, the species of 2-methoxyestradiol was before the Examiner, and was searched and considered by the Examiner in the non-final Office Action. Therefore, amendment of the claims to recite "2-methoxyestradiol" is not the type of amendment that "necessitates a new ground of rejection."

Applicants also argue "Merely stating that a response is unpersuasive, without providing reasoning, fails to comply with the requirement under MPEP § 707.07(0 to "Answer All Material Traversed" which states that "an examiner *must* provide clear explanations of all actions taken by the examiner during prosecution of an application" and that "the examiner should, if he or she repeats the rejection, *take note of the applicant's' argument and answer the substance of it."* (Emphasis added.) The PTO must explain the "shortcomings" of a claim "so that the applicant is properly notified and able to respond." *Hyatt v. Dudas,* 492 F.3d 1365, 1370 (Fed. Cir. 2007); *see* 37 C.F.R. § 1.104(a)(2) ("The reasons for any adverse action or any objection or requirement shall be stated in an Office action ... as may be useful in aiding ... the patent owner, to judge the propriety of continuing the prosecution"); § 1.113(b) ("In making such final rejection, the examiner shall repeat or state all grounds of rejection then considered applicable to the claims in the application, clearly stating the reasons in support thereof'). In view of the foregoing duties of the PTO, Applicants note that the Office Action, including the "Response to Arguments" at pages 20-23, fails to directly address several of Applicants' arguments, merely holding that they "are not persuasive," or commenting on irrelevant factors."

Applicants' arguments have been accorded careful consideration and are persuasive because applicants' amendment to claim 1 by incorporating the limitation of claim 3(now cancelled) into claim 1 would not necessitate a new rejection. MPEP § 706.07 recites:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).
>
> Furthermore, a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will not be made final if it includes a rejection, on newly cited art, other than information submitted in an information disclosure statement filed under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p), of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art.

Thus, it is *not* proper for an office action to be made final when the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based

on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c). Furthermore, it is noted that the examiner did not adequately address all of applicants' arguments.

DECISION

The petition is subsequently **GRANTED**.

The Office action mailed August 4, 2010 is hereby vacated to the extent that it was made "final" and the Office action is now considered to be a non-final Office action. The after final amendment of February 3, 2011 will also be entered. This application will be forwarded to the examiner to take an action consistent with the decision herein.

Should there be any questions about this decision please contact Quality Assurance Specialist 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

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	11928264
Filing Date	30-Oct-2007
First Named Inventor	David Strickland
Art Unit	2629
Examiner Name	ROBERT CARTER III
Attorney Docket Number	051681/330655
Title	FLOOR DISPLAY SYSTEMS AND ADDITIONAL DISPLAY SYSTEMS, AND METHODS AND COMPUTER PROGRAM PRODUCTS FOR USING FLOOR DISPLAY SYSTEMS AND ADDITIONAL DISPLAY SYSTEM

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

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

10.40(b)(4)

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	IntelliMat, Inc. c/o Michael J. Mlotkowski
Address	7918 Jones Branch Drive Suite 500
City	McLean
State	VA
Postal Code	22102

Country	US
I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Christopher J Gegg/
Name	Christopher J. Gegg
Registration Number	50857

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Alexandria, VA 22313-1450
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Decision Date : February 17, 2012

In re Application of :

David Strickland

Application No : 11928264

Filed : 30-Oct-2007

Attorney Docket No : 051681/330655

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed February 17, 2012

The request is **APPROVED.**

The request was signed by Christopher J. Gegg (registration no. 50857) on behalf of all attorneys/agents associated with Customer Number 00826 . All attorneys/agents associated with Cusotmer Number 00826 have been withdrawn.

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

Name	IntelliMat, Inc.
Name2	c/o Michael J. Mlotkowski
Address 1	7918 Jones Branch Drive
Address 2	Suite 500
City	McLean
State	VA
Postal Code	22102
Country	US

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

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

Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/928,278	10/30/2007	Elaine Merisko-Liversidge	029318-1614	7125

31049 7590 03/21/2011

Elan Drug Delivery, Inc. c/o Foley & Lardner
3000 K Street, N.W.
Suite 500
Washington, DC 20007-5109

EXAMINER	
SOROUSH, LAYLA	
ART UNIT	**PAPER NUMBER**
1627	

MAIL DATE	DELIVERY MODE
03/21/2011	PAPER

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

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

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MAR 21 2011

Elan Drug Delivery, Inc. c/o Foley & Lardner
3000 K Street, N.W.
Suite 500
Washington DC 20007-5109

In re Application of:
Merisko-Liversidge et al.
Serial No.: 11/928,278
Filed: October 30, 2007
Attorney Docket No.: **029318-1614**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181, filed February 2, 2011, requesting that the finality of the Office action of August 4, 2010 be withdrawn because it was premature.

It is noted that applicants filed this petition under 37 CFR § 1.181 on February 2, 2011 requesting relief from the "finality" of the Office action mailed August 4, 2010. This petition was not filed within two months from the mailing of the Office action and is thus untimely. Nevertheless, a decision on this petition is rendered herein.

BACKGROUND

On December 28, 2009, the examiner mailed a non-final Office action setting a three month statutory limit for reply. At the time of this Office action, claims 1-22 were pending and were rejected. Claim 3 was rejected under 35 USC 112, second paragraph, as indefinite. Claims 1, 2, 4-5, 9, and 15-22 were rejected under 35 USC 102(e) as being anticipated by Ryde et al. (US Pat 6375986). Claims 1, 2, 4-5, 9, and 15-22 were rejected under 35 USC 102(e) as being anticipated by Ryde et al. (US Pat 6592903). Claims 1-10 and 12-22 were rejected under 35 USC 103(a) as being unpatentable over Clark in view of EP 0602702 A1, Liversidge et al. and Jain. Claim 11 was rejected under 35 USC 103(a) as being unpatentable over Clark, EP 0602702 A1, Liversidge et al. and Jain as applied to claims 1-10 and 12-22, and further in view of Reed et al. and Hunter. Claims 1 and 4-7 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 30 and 31 of Application No. 09/337675. Claims 1 and 4-7 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 21-24 and 26-33 of Patent No. 6592903. Claims 1 and 4-7 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 17-19 and 22-26 of Patent No. 6375986.

On May 19, 2010, applicants filed amendments to the claims and arguments traversing the examiner's rejections instituted in the non-final Office action of December 28, 2009.

On August 4, 2010, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this Office action, claims 1, 2 and 4-22 were rejected. Claims 1, 2, 5-7, 9 and 15- 22 were rejected under 35 USC 102(a) as being anticipated by Hubbell et al. Claims 8, 10, 12-13 and 14 were rejected under 35 USC 103(a) as being unpatentable over Hubbell et al. as applied to claims 1, 2, 5-7, 9 and 15- 22 above, and further in view of Liversidge et al. Claim 11 was rejected under 35 USC 103(a) as being unpatentable over Hubbell et al. and Liversidge et al., as applied to claims 1, 4-14, 18-21 and 23-32 above, and further in view of Reed et al., Clark, EP 0602702 A1, and Hunter. Claims 1-10 and 12-22 were rejected under 35 USC 103(a) as being unpatentable over Clark in view of EP 0602702 A1, Liversidge et al., and Jain. Claim 11 was rejected under 35 USC 103(a) as being unpatentable over Clark, EP 0602702 A1, Liversidge et al. and Jain as applied to claims 1-10 and 12-22 and further in view of Reed et al. and Hunter. Claims 1 and 4-7 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 30 and 31 of Application No. 09/337675. Claims 1 and 4-7 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 21-24 and 26-33 of Patent No. 6592903. Claims 1 and 4-7 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 17-19 and 22-26 of Patent No. 6375986. The examiner indicated that applicants' amendment necessitated the new grounds of rejection.

On January 25, 2011, applicants submitted an after final amendment including claim amendments.

On January 25, 2011, applicants submitted a Notice of Appeal.

On February 2, 2011, applicants submitted the petition under consideration herein.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition, applicants argue "The citation to Hubbell was not necessitated by Applicants' claim amendments. The previous amendments replaced the genus "angiogenesis inhibitors" with the species "2- methoxyestradiol" that was recited in claim 3. The species of 2-methoxyestradiol was the basis of the examination in the prior, non-final, Office Action in which the Examiner asserted the following references:

> (1)U.S. Patent No. 5,521,168, "Estrogen metabolites for lowering intraocular pressure" to Clark, which teaches 5 um particles of 2-methoxyestradiol as an angiogenesis inhibitor for lowering intraocular pressure.
> (2) U.S. Published Application No. 2002/0055462, "Use" to Reed, which teaches the use of conventional crystalline 2-methoxyestradiol and paclitaxel in combination for decreasing TNFa~.

Accordingly, the species of 2-methoxyestradiol was before the Examiner, and was searched and considered by the Examiner in the non-final Office Action. Therefore, amendment of the claims to recite "2-methoxyestradiol" is not the type of amendment that "necessitates a new ground of rejection."

Applicants also argue "Merely stating that a response is unpersuasive, without providing reasoning, fails to comply with the requirement under MPEP § 707.07(0 to "Answer All Material Traversed" which states that "an examiner *must* provide clear explanations of all actions taken by the examiner during prosecution of an application" and that "the examiner should, if he or she repeats the rejection, *take note of the applicant's' argument and answer the substance of it."* (Emphasis added.) The PTO must explain the "shortcomings" of a claim "so that the applicant is properly notified and able to respond." *Hyatt v. Dudas,* 492 F.3d 1365, 1370 (Fed. Cir. 2007); *see* 37 C.F.R. § 1.104(a)(2) ("The reasons for any adverse action or any objection or requirement shall be stated in an Office action ... as may be useful in aiding ... the patent owner, to judge the propriety of continuing the prosecution"); § 1.113(b) ("In making such final rejection, the examiner shall repeat or state all grounds of rejection then considered applicable to the claims in the application, clearly stating the reasons in support thereof*).* "

Applicants' arguments have been accorded careful consideration and are persuasive because applicants' amendment to claim 1 by incorporating the limitation of claim 3(now cancelled) into claim 1 would not necessitate a new rejection. MPEP § 706.07 recites:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).
>
> Furthermore, a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will not be made final if it includes a rejection, on newly cited art, other than information submitted in an information disclosure statement filed under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p), of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art.

Thus, it is *not* proper for an office action to be made final when the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c). Furthermore, it is noted that the examiner did not adequately address all of applicants' arguments.

DECISION

The petition is subsequently **GRANTED**.

The Office action mailed August 4, 2010 is hereby vacated to the extent that it was made "final" and the Office action is now considered to be a non-final Office action. The after final amendment of January 25, 2011 will also be entered. This application will be forwarded to the examiner to take an action consistent with the decision herein.

Should there be any questions about this decision please contact Quality Assurance Specialist 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.

Jackie Stone
Director, Technology Center 1600

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HOLLAND & KNIGHT LLP]
10 St. James Avenue
Boston, MA 02216

MAILED

DEC 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Byron Johnson	:	
Application No. 11/928,279	:	DECISION ON PETITION
Filed: October 30, 2007	:	TO WITHDRAW
Attorney Docket No. 111587.00007	:	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 18, 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 Elizabeth R. Burkard 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 Elizabeth R. Burkhard at the address indicated below.

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Byron K. Johnson**
9859 S. Van Vlissingen
Chicago, IL 60617

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/928,279	10/30/2007	Byron Johnson	111587.00007

CONFIRMATION NO. 7126

54975
HOLLAND & KNIGHT LLP
10 ST. JAMES AVENUE
BOSTON, MA 02116-3889

POWER OF ATTORNEY NOTICE

OC000000044811660

Date Mailed: 12/06/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/18/2010.

- 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/928,289	10/30/2007	Elaine Merisko-Liversidge	029318-1615	7142

31049 7590 03/01/2011

Elan Drug Delivery, Inc. c/o Foley & Lardner
3000 K Street, N.W.
Suite 500
Washington, DC 20007-5109

EXAMINER	
SOROUSH, LAYLA	
ART UNIT	**PAPER NUMBER**
1627	
MAIL DATE	**DELIVERY MODE**
03/01/2011	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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Elan Drug Delivery, Inc. c/o Foley & Lardner
3000 K Street, N.W.
Suite 500
Washington DC 20007-5109

In re Application of:
Merisko-Liversidge et al.
Serial No.: 11/928,289
Filed: October 30, 2007
Attorney Docket No.: **029318-1615**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181, filed February 2, 2011, requesting that the finality of the Office action of August 3, 2010 be withdrawn because it was premature.

BACKGROUND

On December 30, 2009, the examiner mailed a non-final Office action setting a three month statutory limit for reply. At the time of this Office action, claims 1-25 were pending and were rejected. Claims 1-25 were rejected under 35 USC 112, first paragraph, as being nonenabling. Claims 1, 2, 4, 13, 17 and 21-23 were rejected under 35 USC 112, second paragraph, as being indefinite. Claims 1, 3, 4-6, 9, 10-11, and 16-25 were rejected under 35 USC 102(a) as being anticipated by Ryde et al. (US Pat 6375986). Claims 1, 3, 4-6, 9, 10-11, and 16-25 were rejected under 35 USC 102(e) as being anticipated by Ryde et al. (US Pat 6592903). Claims 1, 4-8, 10 and 16-25 were rejected under 35 USC 102(a) as being anticipated by Damascelli et al. Claims 3, 9, 11 and 13-15 were rejected under 35 USC 103(a) as being anticipated by Damascelli et al. as applied to claims 1, 4-8, 10 and 16-25 above, and further in view of Liversidge et al. Claims 2 and 12 were rejected under 35 USC 103(a) as being unpatentable over Damascelli et al. and Liversidge et al. as applied to claims 1, 3-11 and 13-24 above, and further in view of Reed et al., Clark and Hunter. Claims 1-11 and 13-25 were rejected under 35 USC 103(a) as being unpatentable over Clark in view of EP 0602702 A1, Liversidge et al. and Jain. Claim12 was rejected under 35 USC 103(a) as being unpatentable over Clark, EP 0602702 A1, Liversidge et al. and Jain as applied to claims 1-11and 13-25, and further in view of Reed et al. and Hunter. Claims 1, 3 and 4 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 35 of Application No. 09/337675. Claims 1 and 4-9 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 27-29 and 31-34 of Patent No. 6375986.

On May 19, 2010, applicants filed amendments to the claims and arguments traversing the examiner's rejections instituted in the non-final Office action of December 30, 2009.

On August 3, 2010, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this Office action, claims 1 and 3-25 were rejected. Claims 1 and 3-25 were rejected under 35 USC 112, first paragraph, as being nonenabling. Claims 1, 4-8, 10, 16-23 and 25 were rejected under 35 USC 102(a) as being anticipated by Hubbell et al. Claims 10, 12-13 and 18-21 were rejected under 35 USC 103(a) as being unpatentable over Hubbell et al. as applied to claims 1, 4-9, 11, 14 and 23-32 above, and further in view of Liversidge et al. Claims 15-17 and 22 were rejected under 35 USC 103(a) as being unpatentable over Hubbell et al. and Liversidge et al., as applied to claims 1, 4-14, 18-21 and 23-32 above, and further in view of Reed et al., Clark, EP 0602702 A1, and Hunter. Claims 1, 3-11 and 13-25 were rejected under 35 USC 103(a) as being unpatentable over Clark in view of EP 0602702 A1, Liversidge et al., and Jain. Claim 12 was rejected under 35 USC 103(a) as being unpatentable over Clark, EP 0602702 A1, Liversidge et al. and Jain as applied to claims 1, 3-11 and 13-25 and further in view of Reed et al. and Hunter. Claims 1, 4-12, 14-17 and 23-32 are rejected under 35 USC 103(a) as being unpatentable over Ryde et al. (US Pat 6375986) in view of Clark and Hunter. Claims 1, 4-12, 14-17 and 23-32 are rejected under 35 USC 103(a) as being unpatentable over Ryde et al. (US Pat 6592903) in view of Clark and Hunter. Claims 1, 3 and 4 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 35 of Application No. 09/337675. Claims 1 and 4-9 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 27-29 and 31-34 of Patent No. 6375986. The examiner indicated that applicants' amendment necessitated the new grounds of rejection.

On February 2, 2011, applicants submitted an after final amendment including claim amendments.

On February 2, 2011, applicants submitted a Notice of Appeal.

On February 2, 2011, applicants submitted the petition under consideration herein.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition, applicants argue "The citation to Hubbell was not necessitated by Applicants' claim amendments. The previous amendments replaced the genus "angiogenesis inhibitors" with the species "2- methoxyestradiol" that was recited in claim 2. The species of 2-methoxyestradiol was the basis of the examination in the prior, non-final, Office Action in which the Examiner asserted the following references:

> (1)U.S. Patent No. 5,521,168, "Estrogen metabolites for lowering intraocular pressure" to Clark, which teaches 5 um particles of 2-methoxyestradiol as an angiogenesis inhibitor for lowering intraocular pressure.

(2) U.S. Published Application No. 2002/0055462, "Use" to Reed, which teaches the use of conventional crystalline 2-methoxyestradiol and paclitaxel in combination for decreasing TNFa~.

Accordingly, the species of 2-methoxyestradiol was before the Examiner, and was searched and considered by the Examiner in the non-final Office Action. Therefore, amendment of the claims to recite "2-methoxyestradiol" is not the type of amendment that "necessitates a new ground of rejection."

Applicants also argue "Merely stating that a response is unpersuasive, without providing reasoning, fails to comply with the requirement under MPEP § 707.07(0 to "Answer All Material Traversed" which states that "an examiner *must* provide clear explanations of all actions taken by the examiner during prosecution of an application" and that "the examiner should, if he or she repeats the rejection, *take note of the applicant's' argument and answer the substance of it."* (Emphasis added.) The PTO must explain the "shortcomings" of a claim "so that the applicant is properly notified and able to respond." *Hyatt v. Dudas,* 492 F.3d 1365, 1370 (Fed. Cir. 2007); *see* 37 C.F.R. § 1.104(a)(2) ("The reasons for any adverse action or any objection or requirement shall be stated in an Office action ... as may be useful in aiding ... the patent owner, to judge the propriety of continuing the prosecution"); § 1.113(b) ("In making such final rejection, the examiner shall repeat or state all grounds of rejection then considered applicable to the claims in the application, clearly stating the reasons in support thereof*).* "

Applicants' arguments have been accorded careful consideration and are persuasive because applicants' amendment to claim 1 by incorporating the limitation of claim 2(now cancelled) into claim 1 would not necessitate a new rejection. MPEP § 706.07 recites:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).
>
> Furthermore, a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will not be made final if it includes a rejection, on newly cited art, other than information submitted in an information disclosure statement filed under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p), of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art.

Thus, it is *not* proper for an office action to be made final when the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c). Furthermore, it is noted that the examiner did not adequately address all of applicants' arguments.

DECISION

The petition is subsequently **GRANTED**.

The Office action mailed August 3, 2010 is hereby vacated to the extent that it was made "final" and the Office action is now considered to be a non-final Office action. The after final amendment of February 2, 2011 will also be entered. This application will be forwarded to the examiner to take an action consistent with the decision herein.

Should there be any questions about this decision please contact Quality Assurance Specialist 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/928,301	10/30/2007	Takanobu Mukaide	NGTOSH.008AUS	7157

7590 06/15/2011

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER	
CHANG, LEONARD	

ART UNIT	PAPER NUMBER
2812	

NOTIFICATION DATE	DELIVERY MODE
06/15/2011	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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JUL 29 2011

OFFICE OF PETITIONS

CALLAWAY GOLF COMPANY
2180 RUTHERFORD ROAD
CARLSBAD CA 92008-7328

In re Patent No. 7,448,960 : DECISION GRANTING PETITION
Issue Date: November 11, 2008 : UNDER 37 CFR 1.78(a)(3)
Application No. 11/928,318 :
Filed: October 30, 2007 :
Attorney Docket No. PU2523 :

This is a decision on the petition, filed June 17, 2011, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 10/711,825, filed February 8, 1999.

The petition is **dismissed**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed October 30, 2007. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. See, MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

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

The instant petition lacks the required request for certificate of correction (including $100.00 certificate of correction fee).

Any request for reconsideration of this decision must include the required request for certificate of correction and required fee.

Any inquiries concerning this decision may 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 : January 31, 2011

TO SPE OF : ART UNIT 3671 SPE Thomas B. Will

OBJECT : Request for Certificate of Correction for Appl. No.: 11/928,481 Patent No.: 7,802,337 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 U.S. Patent Document reference be added to title page of patent as requested by applicant?
See COCIN dated 01-17-2011

Antonio Johnson

Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

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

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

Comments: _____

_____

_____ _____ **SPE__/Thomas B Will/** _____ **Art Unit SPE 3671**

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LAW OFFICES OF PAUL E. KUDIRKA
40 BROAD STREET
SUITE 300
BOSTON MA 02109

MAILED

MAR 29 2011

OFFICE OF PETITIONS

In re Application of	:	
Arnold SHAEFFER et al.	:	
Application No. 11/928,520	:	DECISION ON PETITION
Filed: October 30, 2007	:	
Attorney Docket No. A0032/7035C3	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 03, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 269, 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). The petition is not accompanied by the required reply.

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

a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1).

The required reply to the final office action was not submitted with petition.

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

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

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

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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40 BROAD STREET
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MAR 29 2011

OFFICE OF PETITIONS

In re Application of :
Arnold SHAEFFER et al. :
Application No. 11/928,520 : DECISION ON PETITION
Filed: October 30, 2007 :
Attorney Docket No. A0032/7035C3 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 03, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 269, 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). The petition is not accompanied by the required reply.

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

a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1).

The required reply to the final office action was not submitted with petition.

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

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Commissioner for Patents
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Alexandria, VA 22313-1450

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

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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SUITE 300
BOSTON MA 02109

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APR 26 2011

OFFICE OF PETITIONS

In re Application of :
Arnold SHAEFFER et al. : **CORRECTED**
Application No. 11/928,520 : DECISION ON PETITION
Filed: October 30, 2007 :
Attorney Docket No. A0032/7035C3 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 03, 2011, to revive the above-identified application.

The petition decision mailed March 29, 2011 is hereby vacated.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 26, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). The petition is not accompanied by the required reply. 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 continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 13/014,224, filed January 26, 2011.

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

This application is being referred to Technology Center AU 2179 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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MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE IL 60048-5343

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Application of :
Wickramasuriya, et al. :
Application No. 11/928,551 : ON PETITION
Filed: October 30, 2007 :
Attorney Docket No. CML05446CAL :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 9, 2011.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed September 17, 2010. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on December 18, 2010. The Office mailed a Notice of Abandonment on March 29, 2011.

With the instant petition, applicants made the proper statement of unintentional delay, paid the petition fee, and filed the required reply in the form of an Amendment.

The application is being forwarded to Group Art Unit 2175 for consideration of the Amendment, filed May 9, 2011.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/928,554	10/30/2007	David A. Downer	3330 US	7519

26356 7590 09/23/2010

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6201 SOUTH FREEWAY
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EXAMINER	
SZPIRA, JULIE ANN	

ART UNIT	PAPER NUMBER
3731	

MAIL DATE	DELIVERY MODE
09/23/2010	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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ALCON
IP LEGAL, TB4-8
6201 SOUTH FREEWAY
FORT WORTH TX 76134

In re Application of:
DOWNER, DAVID A. et al
Serial No. 11/928,554
Filed: Oct. 30, 2007
Docket: 3330US
Title: LENS DELIVERY SYSTEM

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed September 16, 2010 under 37 CFR 1.181 requesting resetting the period to respond to the Notice of Non-Compliant Amendment mailed March 18, 2010 and refund of extension of time fee.

The petition is **dismissed.**

In the petition, petitioner requests that the period of response to the Notice of Non-Compliant Amendment mailed March 18, 2010 be reset and the extension fees associated with the response be refunded. Petitioner asserts that the Notice of Non-Compliant Amendment was never received by Applicants and solely due to this circumstance that the extension fee was required. Petitioner states that the discovery of the non-receipt of the Notice of Non-Compliant Amendment occurred on August 16, 2010 when a status check was conducted. Therefore, petitioner requests the Director set the period for reply from the date of Applicants' actual discovery of the Notice of Non-Compliant Amendment, rather than the mailing date, in which case the extension of time fee would no longer be required.

Discussion and Analysis

In the petition, the applicant asserts that during a status check on August 16, 2010 the non-receipt of the Notice of Non-Compliant Amendment mailed March 18, 2010 was discovered. There is no evidence provided showing 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 nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. 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 computer print out for Action Due provided with the present petition is insufficient to satisfy the MPEP § 711.03 (c) requirements. As such, this petition cannot be granted.

With regard to the requested refund of extension of time fee, 35 USC § 42(d) permits a refund of "any fee paid by mistake or any amount paid in excess of that required." Thus, the Office may refund: (1) a fee paid when no fee is required (a fee paid by mistake); or (2) any fee paid in excess of the amount of fee that is required. See Ex Parte Grady, 59 USPQ 276, 277 (Comm'r Pats. 1943) (the statutory authorization for the refund of fees is applicable only to a mistake relating to fee payment). However, petitioner has not shown, nor does inspection of the record reveal, that the fee in question was paid either in excess or by mistake. Since the fee was paid in the proper amount, the fee was not paid in excess.

The issue here is whether the fee for extension of time was paid by mistake. The extension of time fee was owed at the time it was paid, and it was paid by a duly authorized representative of the applicant. The extension of time fee paid on September 16, 2010 was necessary to prevent the application from going abandoned and to respond to the non-compliant notice mailed on Sep. 19, 2008. Such is not a mistake within the meaning of the statutes and regulations. Under the circumstances, the requested refund can not be approved. The Office has no authority to waive any fees.

Conclusion

For the foregoing reasons, the relief to reset the time period to respond to the Notice of Non-Compliant Amendment notice will not be granted. The requested refund also will not be granted. Specifically, the extension of time fee was not paid by mistake. The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3731 for consideration of the Rule 111 amendment filed September 16, 2010.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED

Angela D. Sykes, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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NOV 07 2011
OFFICE OF PETITIONS

WILLIAM J BUNDREN
THE LAW OFFICE OF WILLIAM J BUNDREN
734 LARUE ROAD
MILLERSVILLE MD 21108

In re Application of :
Stewart, et al. :
Application No. 11/928,595 : ON PETITION
Filed: October 30, 2007 :
Attorney Docket No. VIR.13DIV :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed October 21, 2011.

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

The above application became abandoned for failure to timely file a reply in response to the non-final Office action, mailed December 27, 2010. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on March 28, 2011. The Office mailed Notice of Abandonment on July 21, 2011.

With the instant petition, applicants made the proper statement of unintentional delay, paid the petition fee, and filed an Amendment.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $635 extension of time fee submitted with the petition on October 21, 2001 was subsequent to the maximum period obtainable for reply (June 27, 2011), this fee is being refunded to petitioner's credit card.

The application is being forwarded to Group Art Unit 1644 for consideration of the Amendment, filed October 21, 2011.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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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 :
Melody Vos et al. :
Application No. 11/928,730 :
Filed: October 30, 2007 :
Attorney Docket No. **149-0045USC2** :

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.

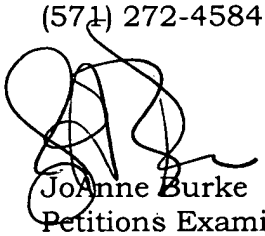
The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information 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

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20333 SH 249 6th Floor
HOUSTON TX 77070

MAILED

JUN 20 2011

OFFICE OF PETITIONS

In re Application of :
Melody Vos et al. :
Application No. 11/928,730 :
Filed: October 30, 2007 :
Attorney Docket No. **149-0045USC2** :

DECISION ON PETITION TO WITHDRAW FROM RECORD

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

The request is **NOT APPROVED**.

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

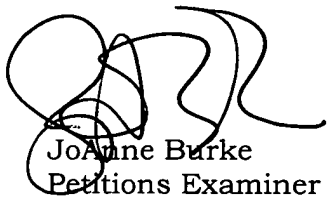
As stated in the previous decision of May 24, 2011, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly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

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

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

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

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



JoAnne Burke
Petitions Examiner
Office of Petitions

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MAR 17 2011

OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
Shunichi Sekiguchi et al	:	
Application No. 11/928,780	:	DECISION DISMISSING PETITION
Filed: October 30, 2007	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. 0054-0370PUS1	:	

This is a decision on the petition under 37 CFR 1.313(a), filed March 16, 2011, requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on February 8, 2011, with the issue fee being due on or before May 9, 2011. The issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

The matter is being referred to Technology Center AU 2624 for appropriate processing of the RCE filed March 16, 2011, and for consideration of the concurrently filed amendment.

/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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Decision Date : June 30,2011

In re Application of :

NIKOLAY VANYUKHIN

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11928887

Filed : 30-Oct-2007

Attorney Docket No : QSOFT.376A2

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed June 30,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid 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 2454 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	11928887
Filing Date	30-Oct-2007
First Named Inventor	NIKOLAY VANYUKHIN
Art Unit	2454
Examiner Name	MOHAMED WASEL
Attorney Docket Number	QSOFT.376A2
Title	IDENTITY MIGRATION APPARATUS AND METHOD

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	/Karen J. Lenker/
Name	Karen J. Lenker
Registration Number	54618

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OCT 05 2010

OFFICE OF PETITIONS

WYETH LLC
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

In re Patent No. 7,749,964 :
Issue Date: July 6, 2010 :
Application No. 11/928,925 : DECISION ON PETITION
Filed: October 30, 2007 :
Attorney Docket No. PC056763/GI005340A D3 :

This is a decision on the Request For Issuance Of Certificate Of Correction, filed on August 11, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name and residence. The Request is being treated as a Petition Under 37 CFR §3.81(b). A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

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

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

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,749,964.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Genetics Institute, LLC
Patent Law Department
87 Cambridge Park Drive
Cambridge, MA 02140

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.
11/928,929	10/30/2007	Dale H. Parrett	534098-00109	8006

27805 7590 08/13/2010

THOMPSON HINE L.L.P.
Intellectual Property Group
P.O. BOX 8801
DAYTON, OH 45401-8801

EXAMINER	
TRIEU, THERESA	
ART UNIT	PAPER NUMBER
3748	

MAIL DATE	DELIVERY MODE
08/13/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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THOMPSON HINE L.L.P.
Intellectual Property Group
P.O. BOX 8801
DAYTON OH 45401-8801

In re Application of:	
PARRETT, DALE H. et al	
Serial No. 11/928,929	
Filed: Oct. 30, 2007	DECISION ON PETITION
Docket: 534098-00109	UNDER 37 CFR § 1.181
Title: SANITARY PUMP ASSEMBLY	

This is a decision on the petition filed on August 6, 2010 under 37 CFR 1.181 requesting re-setting the period to respond to the Office action mailed on May 6, 2010 because the Office action was returned by the US Post Office.

The petition is **Granted.**

In finding petitioner's argument persuasive, the requested relief is granted. Since the original Office action of May 6, 2010 was sent to the correct address and for unknown reasons returned by the US Post Office. Petitioner also stated that a copy of the Office action of May 6, 2010 was obtained via the Office's PAIR website on August 3, 2010. Therefore, this petition to reset time to respond to the Office action mailed on May 6, 2010 is granted. It is also acknowledged that a reply to the outstanding Office action was filed with the petition. Therefore, the reply is now accepted as timely filed.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3748 for consideration of the response filed on August 6, 2010. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Angela D. Sykes, Director
Technology Center 3700

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	11928944
Filing Date	30-Oct-2007
First Named Inventor	Jun Feng
Art Unit	1624
Examiner Name	VENKATARAMAN BALASUBRAMANIAN
Attorney Docket Number	DPP4-5016-C7
Title	DIPEPTIDYL PEPTIDASE INHIBITORS

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	/David M. Stemerick/
Name	David M. Stemerick
Registration Number	40187

UNITED STATES 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 13, 2011

In re Application of :

Jun Feng

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11928944

Filed : 30-Oct-2007

Attorney Docket No : DPP4-5016-C7

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed December 13, 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 1624 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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PATTERSON & SHERIDAN, LLP/INTERCAT EQUIPMENT
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056-6582

MAILED

MAY 31 2011

OFFICE OF PETITIONS

In re Application of :
Albert A. Vierheilig :
Application No. 11/928,978 :
Filed: October 30, 2007 :
Attorney Docket No. CAT/175 US1 :

NOTICE

This is in response to the paper filed April 5, 2011 under 37 CFR 1.28(g)(2) requesting that status as a Small Entity be removed.

In accordance with the April 5, 2011 request, status as a Small Entity has been removed. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DILWORTH IP, LLC
2 CORPORATE DRIVE, SUITE 206
TRUMBULL CT 06611

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AUG 19 2010

OFFICE OF PETITIONS

In re Application of :
Ospinal et al. :
Application No. 11/929,062 : DECISION ON PETITION
Filed: October 30, 2007 :
Attorney Docket No. 14980US08 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 28, 2010 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.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply; (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 Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (2).

With respect to item (2) petitioner has submitted $1,540.00 towards the required petition fee of $1,620.00, thus creating an $80.00 shortage.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay. The petition in the above-identified

application was not accompanied by payment of the required fee. **No consideration on the merits can be given to the petition until the required fee is received.**

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) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas TX 75219

MAILED

NOV 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Chaitali Sengupta et al.	:	
Application No. 11/929,066	:	DECISION ON PETITION
Filed: October 30, 2007	:	TO WITHDRAW
Attorney Docket No. 38192.7	:	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 6, 2010.

The request is **NOT APPROVED.**

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

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has ownership in this application, then a current Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be provided with a renewed request.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

MAILED

APR 20 2011

OFFICE OF PETITIONS

In re Application	:	
Coleman et al.	:	DECISION ON PETITION
Application No. 11/929,068	:	TO WITHDRAW
Filed: October 30, 2007	:	FROM RECORD
Attorney Docket No. BBNT-429-101	:	

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 2, 2011.

The request is **DISMISSED**.

A review of the file record indicates that Choate, Hall & Stewart LLP, was revoked as power of attorney. A new Power of Attorney was filed on April 13, 2011, by the assignee of record. Therefore, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: ROPES & GRAY LLP
IPRM - FLOOR 43
PRUDENTIAL TOWER
800 BOYLSTON STREET
BOSTON MA 02199-3600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100924

DATE : September 24, 2010

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction on Patent No.: 7,756,202

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

No new matter has been introduced. The scope or meaning of the claims has not been changed.

/Mehrdad Dastouri/
Supervisory Patent Examiner.Art Unit 2621

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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JUL 25 2011

OFFICE OF PETITIONS

GORDON E NELSON
PATENT ATTORNEY, PC
57 CENTRAL ST
PO BOX 782
ROWLEY, MA 01969

In re Application of :
Douglas F. Beaven, et al. :
Application No. 11/929,185 : ON PETITION
Filed: October 30, 2007 :
Attorney Docket No.: beaven01.005 :

This is a decision in response to the petition, filed June 22, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office Action Summary mailed September 7, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 8, 2010. A Notice of Abandonment was mailed on May 23, 2011. On June 22, 2011, the present petition was filed.

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

The application is being referred to Technology Center AU 2454 for appropriate action by the Examiner in the normal course of business on the reply received June 22, 2011.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/8/2011 Paper No.: —

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/929198 Patent No.: 7847081 B2

CofC mailroom date: 2/25/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch

703-756-1814

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

Acting SPE — 1644 Art Unit

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HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas TX 75219

MAILED

NOV 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Chaitali Sengupta et al.	:	
Application No. 11/929,231	:	DECISION ON PETITION
Filed: October 30, 2007	:	TO WITHDRAW
Attorney Docket No. 38192.8	:	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 6, 2010.

The request is **NOT APPROVED.**

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

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has ownership in this application, then a current Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be provided with a renewed request.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/929,294	10/30/2007	Yoshimi ISU	1163-0270PUS11	8450

2292 7590 11/24/2010
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER
BANKS HAROLD, MARSHA DENISE

ART UNIT	PAPER NUMBER
2482	

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):

mailroom@bskb.com

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NOV 24 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

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

In re Application of :
ISU, YOSHIMI et al : DECISION ON REQUEST TO
Application No. 11/929,294 : PARTICIPATE IN PATENT
Filed: October 30, 2007 : PROSECUTION HIGHWAY
Attorney Docket No. **1163-0270PUS11** : PILOT PROGRAM AND PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed September 8, 2010.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the EPO or validly claims benefit under 35 U.S.C. 120 to a PCT application;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the EPO application(s);
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the EPO 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 EPO application(s) containing the allowable/patentable claim(s);
(6) Applicant must submit an IDS listing the documents cited by the EPO examiner in the EPO 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 pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Mehrdad Dastouri at 571-272-7418.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

/Mehrdad Dastouri/

Mehrdad Dastouri
Quality Assurance Specialist
Technology Center 2400

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
NOV 23 2011
OFFICE OF PETITIONS

In re Patent of Rajan et al. :
Patent No. 8,019,589 : DECISION ON REQUEST FOR
Issue Date: September 13, 2011 : RECONSIDERATION OF
Application No. 11/929,320 : PATENT TERM ADJUSTMENT
Filed: October 30, 2007 :
Attorney Docket No. 16113-1929003 :

This is a decision on the petition filed on November 10, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred thirty-three (433) days.

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

BACKGROUND

On September 13, 2011, the above-identified application matured into U.S. Patent No. 8,019,589, with a revised patent term adjustment of 302 days. On November 10, 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 433. Patentees assert 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 May 5, 2011, thereby closing examination of the application on that date. Thus, Patentees argue no continued examination took place during the 132 day period from May 5,

2011 (the mailing date of the Notice of Allowance) until September 13, 2011 (the date the patent was issued). As such, Patentees maintain that the "B delay" should include the 132 days and be increased from 59 to 191 days. Patentees conclude that the correct patent term adjustment is 433 days (the sum of 385 days of "A delay" and 191 days of "B delay" minus 1 day of overlap - 142 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 October 30, 2007 and the patent not having issued as of the day after the three year date, October 31, 2010, and a request for continued examination under 132(b) having been filed on December 29, 2010. In other words, the 132 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

---

[1] Pursuant to 35 U.S.C. 132(b) , 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

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

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

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

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

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

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the

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

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

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

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

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

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

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

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

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

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

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

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

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

In this instance, a request for continued examination was filed on December 29, 2010, 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 May 5, 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 302 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

OCT 26 2010

OFFICE OF PETITIONS

SCHWABE WILLIAMSON & WYATT
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND OR 97204

In re Application of
Jean BARBIER, et al
Application No. 11/929,337
Filed: October 30, 2007
Attorney Docket No. 109893-157063

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 1, 2010.

The request is **NOT APPROVED.**

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

In this regard, the request to withdraw from record cannot be approved because the correspondence address provided for future communications from the Office is not proper since the assignee indicated has not been properly made of record under 37 C.F.R 3.71.

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

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

Cc: ABOUND LOGIC S.A.S.
PARC BUROSPACE,
1 ROUTE DE GISY-HALL 1 BIS
BIEVRES 91570 FR

Cc: AL AU YEUNG
1420 5TH AVE., SUITE 3400
SEATTLE WA 98101

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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SCHWABE WILLIAMSON & WYATT
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND OR 97204

MAILED

NOV 30 2010

OFFICE OF PETITIONS

In re Application of
Jean BARBIER, et al
Application No. 11/929,337
Filed: October 30, 2007
Attorney Docket No. 109893-157063

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 12, 2010.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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 Al AuYeung, on behalf of the attorneys of record associated with Customer No. 25943.

The attorneys of record associated with Customer No. 25943 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address for future communications from the Office has been changed and the new correspondence address is the address first copied below.

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: JEAN BARBIER
12 ALLEE DE AMARYLLIS
MONTPELLIER 34070, FRANCE

Cc: AL AUYEUNG
1420 5TH AVE., SUITE 3400
SEATTLE WA 98101

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
11/929,337	10/30/2007	Jean Barbier	109893-157063

CONFIRMATION NO. 8506

25943
Schwabe Williamson & Wyatt
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

POWER OF ATTORNEY NOTICE

OC000000044696908

Date Mailed: 11/29/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/12/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 04/04/12

TO SPE OF : ART UNIT: 3711 Attn: KIM EUGENE L (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/929400 Patent No.: 7972225

CofC mailroom date: 03/22/2012

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 1449 and IDS
FOR THE REQUESTED CORRECTION OF DATE

In Foreign Patent Document

Should this date be corrected as requested or not

Tasneem Siddiqui

Certificates of Correction Branch

703-756-1814 & 703-756-1593

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X Approved	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: _____

_____

/Gene Kim/ SPE 3711 _3711__
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEONA L. LAUDER
235 MONTGOMERY STREET, SUITE 1026
SAN FRANCISCO, CA 94104-0332

MAILED
JUL 06 2011
OFFICE OF PETITIONS

In re Application of
Jan Zavada et al
Application No. 11/929,415
Filed: October 30, 2007
Attorney Docket No. D-0021 .5C-1B

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 May 16, 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 February 3, 2011.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The 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 the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1643 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.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
11/929,415	10/30/2007	1643	1030	D-0021.5C-1B	16	2

CONFIRMATION NO. 8615

CORRECTED FILING RECEIPT

24988
LEONA L. LAUDER
235 MONTGOMERY STREET, SUITE 1026
SAN FRANCISCO, CA 94104-0332

OC000000048543588

Date Mailed: 07/01/2011

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)

Jan Zavada, Prague, CZECH REPUBLIC;
Silvia Pastorekova, Bratislava, SLOVAKIA;
Jaromir Pastorek, Bratislava, SLOVAKIA;

Power of Attorney:
Leona Lauder--30863

Domestic Priority data as claimed by applicant

This application is a CON of 09/807,949 08/09/2001 PAT 7,713,704
which is a 371 of PCT/US99/24879 10/22/1999
This application 11/929,415
is a CIP of 09/177,776 10/23/1998 PAT 6,297,051
and is a CIP of 09/178,115 10/23/1998 PAT 6,297,041

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.)
CZECHOSLOVAKIA PV-709-92 03/11/1992

If Required, Foreign Filing License Granted: 02/06/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/929,415**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MN Gene and Protein

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/929,419	10/30/2007	Yoshimi ISU	1163-0270PUS13	8620

2292 7590 11/24/2010
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER	
BANKS HAROLD, MARSHA DENISE	
ART UNIT	**PAPER NUMBER**
2482	

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):

mailroom@bskb.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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NOV 24 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of :
ISU, YOSHIMI et al : DECISION ON REQUEST TO
Application No. 11/929,419 : PARTICIPATE IN PATENT
Filed: October 30, 2007 : PROSECUTION HIGHWAY
Attorney Docket No. **1163-0270PUS13** : PILOT PROGRAM AND PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed September 8, 2010.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the EPO or validly claims benefit under 35 U.S.C. 120 to a PCT application;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the EPO application(s);
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the EPO 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 EPO application(s) containing the allowable/patentable claim(s);
(6) Applicant must submit an IDS listing the documents cited by the EPO examiner in the EPO 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 pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Mehrdad Dastouri at 571-272-7418.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

/Mehrdad Dastouri/

Mehrdad Dastouri
Quality Assurance Specialist
Technology Center 2400

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120404

DATE : April 04, 2012

TO SPE OF : ART UNIT 2486

SUBJECT : Request for Certificate of Correction on Patent No.: 8,045,624

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

The amendment to the specification paragraph [0009] does not raise new matters.

/Mehrdad Dastouri/
Supervisory Patent Examiner, Art Unit 2486

OK TO ENTER: /T.V./ (04/06/2012)

Docket No.: 1163-0270PUS13
(Patent)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Letters Patent of:	Yoshimi ISU et al.		
Patent No.:	8,045,624 B2	Confirmation No.:	8620
Issued:	October 25, 2011	Art Unit:	2621
For:	BIT STREAM GENERATING APPARATUS (as amended)	Examiner:	T. Vo

REQUEST FOR CERTIFICATE OF CORRECTION PURSUANT TO 35 U.S.C. 255 AND 37 C.F.R. 1.323

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Upon reviewing the above-identified patent, the errors shown in the attached PTO/SB/44 were noted.

The mistake(s) sought to be corrected are part of a clerical or typographical nature, or of minor character, at least one of which was not the fault of the PTO. The errors were made in good faith and do not involve such changes in the patent as would constitute new matter or require reexamination.

Transmitted herewith is a proposed Certificate of Correction effecting such amendment. Patentee respectfully solicits the granting of the requested Certificate of Correction.

If necessary, the Director is hereby authorized in this, concurrent, and future replies to charge any fees required during the pendency of the above-identified application or credit any overpayment to Deposit Account No. 02-2448.

Dated: November 28, 2011

Respectfully submitted,

By _____
Chad J. Billings
Registration No.: 48917
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road, Suite 100 East
P.O. Box 747
Falls Church, VA 22040-0747
703-205-8000

Attachment

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 8,045,624 B2

APPLICATION NO. : 11/929,419

ISSUE DATE : October 25, 2011

INVENTOR(S) : Yoshimi ISU 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, at section (54), and at Column 1, lines 1-2, correct the Title as follows:

Change: "Video Bit Stream Converting Apparatus"

To: -- Bit Stream Generating Apparatus –

On the 1st Specification page, at Column 2, line 51 to Column 3, line 5, correct the text as filed in the §1.312 amendment filed by Applicant on October 3, 2011 as follows:

[0009] According to the present invention, there is provided ~~header information of the H.263 coding scheme and image coded data encoded in the H.263 coding scheme are multiplexed, or for decoding a second coded bit stream into which header information of the MPEG-4 coding scheme and image coded data encoded in the MPEG-4 coding scheme are multiplexed, the image decoding apparatus comprising: coding scheme decision means for making a decision as to whether a received coded bit stream is the first coded bit stream or the second coded bit stream in response to the first header information or to the second header information; two kinds of variable coded length tables for use in the decoding of the alternative current component of the DCT coefficient; a switch for switching to one of the two kinds of the variable coded length tables regardless of a coding type of a macroblock to which a DCT block belongs when the first coded bit stream is received and for switching to the variable coded length table selected according to a coding type of a macroblock to which a DCT block belongs when the second coded bit stream is received; and a decoding means for decoding the alternative current component of the DCT coefficient using the variable coded length table switched by the switch~~a bit stream generating apparatus comprising: header information multiplexing means for multiplexing a first coded bit stream, encoded in the H.263 coding scheme, including the first header information of the H.263 coding scheme with the second header information of MPEG-4 coding scheme before the first header information for ensuring compatibility with the MPEG-4 coded bit stream encoded in the MPEG-4 coding scheme, wherein the header information multiplexing means multiplexes the image coded data with video object start code and video object identification number of MPEG-4 coding scheme as the second header information for ensuring compatibility with the MPEG-4 coded bit stream.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Chad J. Billings
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road, Suite 100 East
P.O. Box 747
Falls Church, VA 22040-0747

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

MAILED

JUL 05 2011

OFFICE OF PETITIONS

In re Patent No. 7,915,858 :
Issue Date: March 29, 2011 :
Application No. 11/929,466 : NOTICE
Filed: October 30, 2007 :
Attorney Docket No. 2055.081 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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FISH & RICHARDSON P.C. (NY)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

JAN 31 2012

OFFICE OF PETITIONS

In re Application :
Chen :
Application No. 11/929,481 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: October 30, 2007 :
Dkt. No.: 07039-219004 / MMV 00-053 :

This is in response to the application for patent term adjustment pursuant to 37 CFR 1.705(b) filed December 21, 2011.

The request for reconsideration of patent term adjustment is **GRANTED**.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 384 days, not 293 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment mailed September 22, 2011. Applicant contests the adjustment of 387 days under 37 CFR 1.702(a)(1) and assert that the correct adjustment in this regard is 476 days. Applicant further contests the reduction of three days in connection with the reply filed September 13, 2011. Applicants assert that the correct reduction in this regard is one day.

The arguments presented have been carefully reviewed and found convincing. The application is entitled to an adjustment of 476 days under 37 CFR 1.702(a)(1), as argued. The adjustment commenced December 31, 2008 and ended April 20, 2010, the date that the non-final Office action was mailed.

Further, the Office errantly entered a reduction of three days in connection with the reply filed September 13, 2011. In accordance with 37 CFR 1.704(b), the reduction totalling one day commenced September 12, 2011, and ended September 13, 2011.

In view thereof, at the time of allowance, the application was entitled to an overall patent term adjustment of 384 days, as argued.

The $200.00 patent term adjustment application required per 37 CFR 1.18(e) has been charged to the authorized deposit account.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the

issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

An Adjusted PAIR Calculation is enclosed.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Enclosure

Best Available Copy

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11929481 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11929481

Application Filing Date	10/30/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	387
A Delays	387	PTO Manual Adjustment	91
B Delays	0	Applicant Delay (APPL)	94
C Delays	0	Total PTA (days)	384

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
105	01/28/2012		P028	Adjustment of PTA Calculation by PTO		1	0
104	01/28/2012		P028	Adjustment of PTA Calculation by PTO	476		0
103	01/28/2012		P028	Adjustment of PTA Calculation by PTO		387	0
102	01/28/2012		P028	Adjustment of PTA Calculation by PTO	3		0
87	09/22/2011		MN/=.	Mail Notice of Allowance			0
86	09/16/2011		OAR	Office Action Review			0
85	09/16/2011		OAR	Office Action Review			0
84	09/16/2011		IREV	Issue Revision Completed			0
83	09/16/2011		DVER	Document Verification			0
82	09/16/2011		N/=.	Notice of Allowance Data Verification Completed			0
81	09/16/2011		DOCK	Case Docketed to Examiner in GAU			0
80	09/14/2011		CTRT	Telephonic restriction			0
79	09/14/2011		CNTA	Allowability Notice			0
76	09/14/2011		FWDX	Date Forwarded to Examiner			0
75	09/13/2011	09/10/2011	A.NE	Amendment after Final Rejection		3	65
74	09/13/2011		XT/G	Request for Extension of Time - Granted			0
73	09/09/2011		EML_NTR	Email Notification			0
72	09/09/2011		MCTAV	Mail Advisory Action (PTOL - 303)			0
71	09/02/2011		OAR	Office Action Review			0
70	09/01/2011		CTAV	Advisory Action (PTOL-303)			0
69	08/30/2011		FWDX	Date Forwarded to Examiner			0
68	08/26/2011		A.NE	Amendment after Final Rejection			0
67	06/10/2011		ELC_RVW	Electronic Review			0
66	06/10/2011		EML_NTF	Email Notification			0
65	06/10/2011		MCTFR	Mail Final Rejection (PTOL - 326)			0
64	06/07/2011		OAR	Office Action Review			0
63	06/06/2011		CTFR	Final Rejection			0
57	04/29/2011		ABN9	Disposal for a RCE / CPA / R129			0
62	04/28/2011		IDSC	Information Disclosure Statement considered			0
60	04/28/2011		RCAP	Reference capture on IDS			0
59	04/28/2011		M844	Information Disclosure Statement (IDS) Filed			0
58	04/28/2011		RCEX	Request for Continued Examination (RCE)			0
56	04/28/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
55	04/28/2011		BRCE	Workflow - Request for RCE - Begin			0
54	04/06/2011		ELC_RVW	Electronic Review			0
53	04/06/2011		EML_NTF	Email Notification			0
52	04/06/2011		MCTFR	Mail Final Rejection (PTOL - 326)			0
51	03/31/2011		OAR	Office Action Review			0
50	03/30/2011		CTFR	Final Rejection			0
49	01/31/2011		FWDX	Date Forwarded to Examiner			0
48	01/25/2011	10/26/2010	A...	Response after Non-Final Action		91	44
47	01/25/2011		XT/G	Request for Extension of Time - Granted			0
46	07/26/2010		ELC_RVW	Electronic Review			0
45	07/26/2010		EML_NTF	Email Notification			0
44	07/26/2010		MCTNF	Mail Non-Final Rejection			0
43	07/21/2010		CTNF	Non-Final Rejection			0
37	05/19/2010		FWDX	Date Forwarded to Examiner			0
36	05/17/2010		ELC.	Response to Election / Restriction Filed			0
35	04/21/2010		ELC_RVW	Electronic Review			0
34	04/20/2010		EML_NTF	Email Notification			0
33	04/20/2010		MCTRS	Mail Restriction Requirement			0
32	04/16/2010		CTRS	Restriction/Election Requirement			0
31	03/03/2010		FWDX	Date Forwarded to Examiner			0
30	01/29/2010		A...	Response after Non-Final Action			0
29	01/21/2010		ELC_RVW	Electronic Review			0
28	01/21/2010		EML_NTF	Email Notification			0
27	01/21/2010	12/30/2008	MCTMS	Mail Miscellaneous Communication to Applicant	387		0.5
26	01/15/2010		CTMS	Miscellaneous Action with SSP			0
25	08/03/2009		A.PE	Preliminary Amendment			0
24	01/23/2009		EML_NTR	Email Notification			0
23	01/22/2009		PG-ISSUE	PG-Pub Issue Notification			0
22	11/13/2008		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
21	11/13/2008		DOCK	Case Docketed to Examiner in GAU			0
17	10/24/2008		OIPE	Application Dispatched from OIPE			0

15	10/08/2008	PGPC	Sent to Classification Contractor	0
13	03/12/2008	SES	Small Entity Statement (37 CFR 1.27)	0
12	03/12/2008	ADDFLFEE	Additional Application Filing Fees	0
11	03/12/2008	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
10	02/11/2008	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
9	02/11/2008	FLRCPT.O	Filing Receipt	0
7	01/18/2008	L128	Cleared by L&R (LARS)	0
6	11/20/2007	CRFE	CRF Is Good Technically / Entered into Database	0
5	11/06/2007	L198	Referred to Level 2 (LARS) by OIPE CSR	0
4	11/06/2007	CLSS	CASE CLASSIFIED BY OIPE	0
3	11/04/2007	SCAN	IFW Scan & PACR Auto Security Review	0
38	10/30/2007	IDSC	Information Disclosure Statement considered	0
20	10/30/2007	RCAP	Reference capture on IDS	0
19	10/30/2007	M844	Information Disclosure Statement (IDS) Filed	0
18	10/30/2007	A.PE	Preliminary Amendment	0
8	10/30/2007	CRFL	CRF Disk Has Been Received by Preexam / Group / PCT	0
2	10/30/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
1	10/30/2007	IEXX	Initial Exam Team nn	0
0.5	10/30/2007	EFILE	Filing date	0

Export to: Excel

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

MAILED

AUG 30 2011

OFFICE OF PETITIONS

In re Patent No. 7,995,540 :
Issue Date: August 9, 2011 :
Application No. 11/929,520 : ON PETITION
Filed: October 30, 2007 :
Patentee(s): Vincent Belaiche :

This is a decision on the petition under 37 CFR 1.183 filed August 16, 2011, which is being treated as a request under 37 CFR 3.81(b), to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Since the present request complies with the requirements of 37 CFR 3.81(b), the request is **GRANTED**.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Andrea Smith
Petitions Examiner
Office of Petitions

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MAR 06 2012

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

In re Application of
Daniel G. Moro et al.
Application No. 11/929,531
Filed: October 30, 2007
Attorney Docket No. 065284-0764

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 29, 2012.

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 Antoinette F. Konski, and attorneys/agents associated with customer number 38706, do not have power of attorney, but has acted in a representative capacity in this patent application. See 37 C.F.R. § 10.40.

The correspondence address has been changed and is copied below.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4618

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: ULURU, Inc.
4452 Beltway Drive
Addison, TX 75001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Decision Date : December 13, 2011

In re Application of :

Jun Feng

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11929593

Filed : 30-Oct-2007

Attorney Docket No : DPP4-5016-C4

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed December 13, 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 1624 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	11929593
Filing Date	30-Oct-2007
First Named Inventor	Jun Feng
Art Unit	1624
Examiner Name	VENKATARAMAN BALASUBRAMANIAN
Attorney Docket Number	DPP4-5016-C4
Title	DIPEPTIDYL PEPTIDASE INHIBITORS

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	/David M. Stemerick/
Name	David M. Stemerick
Registration Number	40187

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/929,599	10/30/2007	Yoshimi ISU	1163-0270PUS8	8852

2292 7590 11/26/2010
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER
BANKS HAROLD, MARSHA DENISE

ART UNIT	PAPER NUMBER
2482	

NOTIFICATION DATE	DELIVERY MODE
11/26/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

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NOV 26 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of :
ISU, YOSHIMI et al :
Application No. 11/929,599 :
Filed: October 30, 2007 :
Attorney Docket No. **1163-0270PUS8** :

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed November 16, 2010.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the EPO or validly claims benefit under 35 U.S.C. 120 to a PCT application;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the EPO application(s);
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the EPO 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 EPO application(s) containing the allowable/patentable claim(s);
(6) Applicant must submit an IDS listing the documents cited by the EPO examiner in the EPO 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 pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Mehrdad Dastouri at 571-272-7418.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

/Mehrdad Dastouri/

_____

Mehrdad Dastouri
Quality Assurance Specialist
Technology Center 2400

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Commissioner for Patents
United States Patent and Trademark Office
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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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MAR 01 2012

PCT LEGAL ADMINISTRATION

In re Application of	:	
Rajan et al.	:	
Application No. 11/929,636	:	DECISION ON PETITION
Filed: October 30, 2007	:	
Attorney Docket No. 16113-1932002	:	UNDER 37 CFR 1.78(a)(3)
For: Memory Circuit System And Method	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 21, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1) above.

Requirement (1) has not been satisfied because the relationships stated in the amendment are not reflected in the parent application. 37 CFR 1.78(a)(2)(i) requires that any nonprovisional or international application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. MPEP 201.11 explains that

> *Sometimes a pending application is one of a series of applications wherein the pending application is not copending with the first filed application but is copending with an intermediate application entitled to the benefit of the filing date of the first application. If applicant wishes that the pending application have the benefit of the filing date of the first filed application, applicant must, besides making reference to the intermediate application, also make reference to the first application. See Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 160 USPQ 177 (7th Cir. 1968) and Hovlid v. Asari, 305 F. 2d 747, 134 USPQ 162 (9th Cir. 1962). The reference to the prior applications must identify all of the prior applications and indicate the relationship (i.e., continuation, divisional, or continuation-in-part) between each nonprovisional application in order to establish copendency throughout the entire chain of prior applications. Appropriate references must be made in each intermediate application in the chain of prior applications. If an applicant desires, for example, the following benefit claim: "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A.*

The concurrently filed amendment states that parent application PCT/US2007/016385 is a "continuation-in-part" of certain enumerated nonprovisional applications, but inspection of the application file for PCT/US2007/016385 reveals that the benefit clams to the nonprovisional applications did not include the requisite relationship ("continuation-in-part") to such applications.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
(571) 272-3283

/Boris Milef/
Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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MINNEAPOLIS, MN 55440-1022

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MAR 21 2012

OFFICE OF PETITIONS

In re Application of
Suresh Natarajan Rajan, et al.
Application No. 11/929,636
Filed: October 30, 2007
Attorney Docket No. 16113-1932002

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 20, 2012, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 22, 2012 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to PCT Legal Administration for the processing of the petition filed March 20, 2012. The application will be forwarded to the Technology Center AU 2185 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement once the petition has been processed.

/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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/29/11

TO SPE OF : ART UNIT 1642

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/929,772 Patent No.: 7,749,505

CofC mailroom date: 3/21/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

RoChaun Johnson
Certificates of Correction Branch
703-756-1580

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X Approved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

/Misook Yu/ SPE 1642

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LIFE TECHNOLOGIES CORPORATION
Attn: IP Department
5791 Van Allen Way
Carlsbad CA 92008

MAILED
APR 11 2012
OFFICE OF PETITIONS

In re Application of	:	
Sauer et al.	:	
Application No. 11/929,794	:	
Filed: October 30, 2007	:	DECISION ON PETITION
Atty Docket No. LT00270.3 CON US	:	UNDER 37 CFR 1.78(a)(6)

This is a decision on the PETITION FOR UNINTENTIONALLY DELAYED PRIORITY CLAIM PURSUANT TO 37 C.F.R. § 1.78(a)(3) filed January 11, 2012, which is properly treated as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim of priority to provisional application No. 60/259,584.

The petition is **DISMISSED AS MOOT**.

A petition for acceptance of a claim for late priority under 37 CFR § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR § 1.78(a)(5)(ii), and must be filed during the pendency of the nonprovisional application. In addition, the petition under 37 CFR § 1.78(a)(6), must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §1.78(a)(5)(ii), and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The instant application was filed after November 29, 2000 and is pending. A review of the application as filed shows that the claim for priority set forth on petition was submitted in an application data sheet on filing. Thus, the claim was timely submitted, but not entered by the Office. The claim has now been entered. A corrected filing receipt, showing the claim, accompanies this decision.

Accordingly, the petition under 37 CFR 1.78(a)(6) is unnecessary.

In view of the above, the $1410 surcharge submitted is unnecessary and will be refunded in due course, as authorized.

The fact that the record of the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
11/929,794	10/30/2007	2892	743	LT00270.3 CON US	25	4

CONFIRMATION NO. 9097

CORRECTED FILING RECEIPT

52059
LIFE TECHNOLOGIES CORPORATION
Attn: IP Department
5791 Van Allen Way
Carlsbad, CA 92008

Date Mailed: 03/28/2012

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Jon R. Sauer, Superior, CO;
Bart J. Van Zeghbroeck, Boulder, CO;

Power of Attorney: The patent practitioners associated with Customer Number 52059

Domestic Priority data as claimed by applicant

This application is a CON of 11/301,259 12/13/2005
which is a DIV of 10/258,439 10/24/2002 PAT 7001792
which is a 371 of PCT/US01/13101 04/24/2001
and is a CIP of 09/653,543 08/31/2000 PAT 6413792
which claims benefit of 60/199,130 04/24/2000
and claims benefit of 60/217,681 07/12/2000
and said PCT/US01/13101 04/24/2001
claims benefit of 60/259,584 01/04/2001

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: 12/06/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/929,794**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

ULTRA-FAST NUCLEIC ACID SEQUENCING DEVICE AND A METHOD FOR MAKING AND USING THE SAME

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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FINNEGAN HENDERSON FARABOW GARRETT & DUNNER LLP
901 NEW YORK AVENUE NW
WASHINGTON DC 20001-4413

MAILED

JUL 29 2011

OFFICE OF PETITIONS

In re	:	
Rosen, et al	:	DECISION REGARDING
Application No. 11/929,828	:	PATENT TERM ADJUSTMENT
Filed: October 30, 2007	:	
Attorney Docket No. 06832.0062-08000	:	

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT - PRE-GRANT", filed July 6, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred eighty-six (186) days to two hundred eighteen (218) days.

The application for patent term adjustment is **GRANTED**.

On April 7, 2011, the Office mailed the Determination of Patent Term Adjustment, indicating that the patent term adjustment prior to issuance was one hundred eighty-six (186) days. Applicants timely submitted the instant application for patent term adjustment on July 6, 2011, asserting that the correct number of days of PTA prior to issuance is two hundred eighteen (218) days. According to Patentees, the Office erroneously accorded thirty-two (32) days of applicant delay under 37 CFR 1.704(c)(8) for the submission of an IDS on January 21, 2011, after applicants had previously filed a response on December 20, 2010. Applicants state that the IDS contained a 37 CFR 1.704(d) statement, and therefore no applicant delay should have been accorded.

A review of the IDS filed January 21, 2011 confirms that it contained a proper 37 CFR 1.704(d) statement.

Accordingly, the petition is granted.

In view thereof, the correct determination of PTA prior to issuance is two hundred eighteen (218) days (260 days of PTO delay, reduced by 42 (34+8) 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 Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: copy of PAIR screen

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11929828 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11929828

Application Filing Date	10/30/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	260
A Delays	260	PTO Manual Adjustment	32
B Delays	0	Applicant Delay (APPL)	74
C Delays	0	Total PTA (days)	218

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
87	07/19/2011		P028	Adjustment of PTA Calculation by PTO	32		0
71	04/07/2011		MN/=.	Mail Notice of Allowance			0
70	04/06/2011		OAR	Office Action Review			0
69	04/06/2011		OAR	Office Action Review			0
68	03/24/2011		OAR	Office Action Review			0
67	03/24/2011		OAR	Office Action Review			0
66	03/24/2011		IREV	Issue Revision Completed			0
65	03/24/2011		DVER	Document Verification			0
64	03/24/2011		N/=.	Notice of Allowance Data Verification Completed			0
59	03/13/2011		EX.A	Examiner's Amendment Communication			0
58	03/13/2011		CNTA	Allowability Notice			0
55	01/21/2011		IDSC	Information Disclosure Statement considered			0
53	01/21/2011	12/20/2010	M844	Information Disclosure Statement (IDS) Filed		32	49
52	01/21/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
50	12/26/2010		FWDX	Date Forwarded to Examiner			0
51	12/20/2010		RU47	Rule 47 / 48 Correction of Inventorship Papers Filed			0
49	12/20/2010		A.QU	Response after Ex Parte Quayle Action			0
54	11/24/2010		IDSC	Information Disclosure Statement considered			0
48	11/24/2010		RCAP	Reference capture on IDS			0
47	11/24/2010		M844	Information Disclosure Statement (IDS) Filed			0
46	11/24/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
45	11/24/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
44	11/09/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
43	10/26/2010		MCTEQ	Mail Ex Parte Quayle Action (PTOL - 326)			0
42	10/01/2010		CTEQ	Quayle action			0
63	07/07/2010		IDSC	Information Disclosure Statement considered			0
61	07/07/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
40	07/07/2010	06/29/2010	M844	Information Disclosure Statement (IDS) Filed		8	35
36	07/03/2010		FWDX	Date Forwarded to Examiner			0
62	06/29/2010		IDSC	Information Disclosure Statement considered			0
60	06/29/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
39	06/29/2010		RCAP	Reference capture on IDS			0
38	06/29/2010		M844	Information Disclosure Statement (IDS) Filed			0
37	06/29/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
35	06/29/2010		A...	Response after Non-Final Action			0
34	03/29/2010		MCTNF	Mail Non-Final Rejection			0
33	03/25/2010		CTNF	Non-Final Rejection			0
30	01/25/2010		FWDX	Date Forwarded to Examiner			0
29	01/19/2010	12/16/2009	ELC.	Response to Election / Restriction Filed		34	27
28	01/19/2010		XT/G	Request for Extension of Time - Granted			0
27	09/16/2009	12/30/2008	MCTRS	Mail Restriction Requirement	260		0.5
26	09/14/2009		CTRS	Restriction/Election Requirement			0
32	02/06/2009		IDSC	Information Disclosure Statement considered			0
24	02/06/2009		RCAP	Reference capture on IDS			0
23	02/06/2009		M844	Information Disclosure Statement (IDS) Filed			0
22	02/06/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
20	06/26/2008		PG-ISSUE	PG-Pub Issue Notification			0
19	06/19/2008		DOCK	Case Docketed to Examiner in GAU			0
18	06/18/2008		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
16	03/20/2008		FLRCPT.C	Filing Receipt - Corrected			0
15	03/04/2008		OIPE	Application Dispatched from OIPE			0
14	02/25/2008		PGPC	Sent to Classification Contractor			0
13	02/25/2008		FLRCPT.U	Filing Receipt - Updated			0
12	02/25/2008		COMP	Application Is Now Complete			0
11	02/12/2008		FLFEE	Payment of additional filing fee/Preexam			0
10	02/12/2008		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
9	02/12/2008		CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems			0
8	02/12/2008		CORRSPEC	Applicant has submitted a new specification to correct Corrected Papers problems			0
7	12/13/2007		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
6	12/13/2007		FLRCPT.O	Filing Receipt			0
4	11/20/2007		CRFE	CRF Is Good Technically / Entered into Database			0
3	11/13/2007		L194	Cleared by OIPE CSR			0
2	11/03/2007		SCAN	IFW Scan & PACR Auto Security Review			0
17	10/30/2007		A.PE	Preliminary Amendment			0
5	10/30/2007		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
1	10/30/2007		IEXX	Initial Exam Team nn			0

0.5	10/30/2007	EFILE	Filing date	0

Export to: Excel

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FINNEGAN HENDERSON FARABOW GARRETT & DUNNER LLP
901 NEW YORK AVENUE NW
WASHINGTON DC 20001-4413

MAILED

NOV 16 2011

OFFICE OF PETITIONS

In re	:
Rosen, et al	: DECISION REGARDING
Application No. 11/929,828	: PATENT TERM ADJUSTMENT
Filed: October 30, 2007	: AND NOTICE OF INTENT
Patent No. 8,012,464	: TO ISSUE
Issued: September 6, 2011	: CERTIFICATE OF CORRECTION
Attorney Docket No. 06832.0062-08000	:
	:

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT - POST-GRANT", filed November 3, 2011. Applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred fifteen (515) days to five hundred twenty-nine (529) days.

The application for patent term adjustment is **GRANTED**.

On September 6, 2011, the application issued into Patent No. 8,012,464 with a patent term adjustment of five hundred fifteen (515) days. The Office determined a patent term adjustment of 515 days based on 260 days of "A" delay and 311 days of "B" delay, reduced by 56 days of applicant delay. Patentee argues that they were erroneously assessed 14 days of applicant delay under 37 CFR 1.704(c)(10) for filing an IDS on April 28, 2011.

A review of the IDS filed April 28, 2011 confirms that it contained a proper 37 CFR 1.704(d) statement.

Accordingly, the petition is granted.

In view thereof, the correct determination of PTA at issuance is five hundred twenty-nine (529) days (260 days of "A" delay and 311 days of "B" delay, reduced by 42 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 **five hundred twenty-nine (529)** 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 Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 8,012,464 B2

DATED : **September 6, 2011**

INVENTOR(S) : Rosen 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 515 days.

Delete the phrase "by 515 days" and insert – by 529 days--

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FISH & RICHARDSON, PC
SMITH NEPHEW, INC.
150 MINUTEMAN ROAD
ANDOVER, MA 01810

MAILED

DEC 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Mark Hans Emanuel	:	
Application No. 11/929,938	:	DECISION GRANTING PETITION
Filed: October 30, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 00167-404003/PT-2396-US-D	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 20, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 2, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 3773 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-6357

MAILED

SEP 22 2010

OFFICE OF PETITIONS

In re Patent No. 7,794,756	:	
Issued: September 14, 2010	:	
Application No. 11/929,975	:	NOTICE
Filed: October 30, 2007	:	
Attorney Docket No.: 28967/34140A4	:	

This is in response to the communication filed July 13, 2010, which is being treated as a request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The present communication is not signed by a registered practitioner of record. However, in accordance with 37 CFR 1.34(a), the signature of David A. Gass 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.

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 no longer qualifies for small entity status. Accordingly, any future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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IBM CORPORATION, T.J. WATSON
RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS NY 10598

MAILED
AUG 02 2010
OFFICE OF PETITIONS

In re Application of :
Beaman et al. :
Application No. 11/930039 : DECISION
Filing or 371(c) Date: 10/30/2007 : ON PETITION
Attorney Docket Number: YOR919930028US41 :

This is a decision on the "Petition to Revive Patent Application Unintentionally Abandoned Under 37 CFR 1.137(b)," filed March 25, 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 July 17, 2009. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No timely and proper reply having been received, the application became abandoned on April 10, 2006. A Notice of Abandonment was mailed November 20, 2006.

The present petition

Applicant files the instant petition and amendment in response to the Office action; however, no petition fee has been filed.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition pursuant to this paragraph must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition fee

As to item (2), Applicant is advised that before the merits of Applicant's petition may be considered, the petition fee must be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232. All other inquiries should be directed to the applicable Office.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 1, 2011

TO SPE OF : ART UNIT 2116 - SPE

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/930,049 Patent No.: 7,836,322 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Should the Related Application Data at Column 1, lines 7-11 be amended as requested by applicant? *See COCIN dated 2-15-2011*

Antonio Johnson

_____
Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X Approved	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____ **SPE /Thomas Lee/ Art Unit 2115**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW Nov-10

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NOV 18 2010

OFFICE OF PETITIONS

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

In re Application of :
Jiang et al. : DECISION ON PETITION
Application No. 11/930,080 :
Filed: 10/30/2007 :
Attorney Docket Number: :
210121.470C21

This is a decision on the petition filed on August 17, 2010, which requests under 37 C.F.R. §1.182 that a previously filed terminal disclaimer be withdrawn.

The petition is granted.

Petitioner asserts that the terminal disclaimer filed on August 21, 2009, should be withdrawn because it is no longer required. As the examiner has concurred, the requested relief can be favorably considered.

The petition fee of $400.00 will be charged to counsel's deposit account as authorized in the present petition.[1]

This application is being referred to Technology Center Art Unit 1642 for correction of PALM and file records consistent with this decision.

Telephone inquiries relative to this decision should be directed to the undersigned at (571) 272-3231.

/D Wood/

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] $130.00 was submitted with the petition. The fee required under § 1.17(f) is $400.00, however. The balance due of $270.00 will be charged to counsel's deposit account, as authorized in the petition.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CONNIE MASTERS
2385 FLUTE AVE
HENDERSON, NV 89052

MAILED
APR 20 2011
OFFICE OF PETITIONS

In re Application of :
Sharon Campbell :
Application No. 11/930,110 : DECISION ON PETITION
Filed: October 31, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 1102.01CA : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 28, 2011, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from inventor Sharon Campbell stating that she is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3632 for action on the merits commensurate with this decision.

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

GREENBERG TRAURIG, LLP (SV)
IP DOCKETING
2450 COLORADO AVENUE
SUITE 400E
SANTA MONICA, CA 90404

MAILED

NOV 0 8 2010

OFFICE OF PETITIONS

In re Application of :
Russell A. Houser et al. :
Application No. 11/930,111 : DECISION ON PETITION
Filed: October 31, 2007 : TO WITHDRAW
Attorney Docket No. **37163-709.303** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed September 23, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 64494 has been revoked by the applicants of the patent application on October 4, 2010. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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IP DOCKETING
2450 COLORADO AVENUE
SUITE 400E
SANTA MONICA, CA 90404

MAILED

NOV 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Houser et al.	:	DECISION ON PETITION
Application No. 11/930,125	:	TO WITHDRAW
Filed: October 31, 2007	:	FROM RECORD
Attorney Docket No. 120057-010504/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 September 21, 2010.

The request is **NOT APPROVED**.

The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The current request does not set forth any of the above certifications. Therefore, the request cannot be approved at this time. Any subsequent requests must include all of the above listed certifications pursuant to 37 CFR 10.40.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There is an outstanding Office action mailed August 5, 2010, that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

Enclosure: Form PTO/SB/83 Request for Withdrawal as Attorney or Agent and Change of Correspondence Address.

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, LLP (SV)
C/O: GREENBERG TRAURIG LLP - CHICAGO OFFICE
77 WEST WACKER DRIVE, SUITE 3100
INTELLECTUAL PROPERTY DEPARTMENT
CHICAGO, IL 60601

MAILED

JAN 20 2011

OFFICE OF PETITIONS

In re Application of	:	
Russell A. Houser	:	DECISION ON PETITION
Application No. 11/930,125	:	TO WITHDRAW
Filed: October 31, 2007	:	FROM RECORD
Attorney Docket No. 120057-010504/US	:	

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 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 Cecily Anne O'Regan on behalf of all the practitioners of record associated with Customer Number 64494.

Customer Number 64494 has been withdrawn as attorney from record. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed August 5, 2010 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: RUSSELL A. HOUSER
4574 COUNTRY LANE
LIVERMORE, CA 94550

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
11/930,125	10/31/2007	Russell A. Houser	120057-010504/US

CONFIRMATION NO. 9474

64494
GREENBERG TRAURIG, LLP (SV)
c/o: Greenberg Traurig LLP - Chicago Office
77 West Wacker Drive, Suite 3100
Intellectual Property Department
Chicago, IL 60601

POWER OF ATTORNEY NOTICE

OC00000045553772

Date Mailed: 01/19/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/21/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/atkelley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Alexandria, VA 22313-1450
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MICHAEL N. HAYNES
1341 HUNTERSFIELD CLOSE
KESWICK, VA 22947

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application of :
Michael P. APPLEBY, et **al.** :
Application No. 11/930,274 : DECISION GRANTING PETITION
Filed: October 31, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **1021-035** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 16, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 10, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1791 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL N. HAYNES
1341 HUNTERSFIELD CLOSE
KESWICK VA 22947

MAILED
OCT 04 2011
OFFICE OF PETITIONS

In re Application of :
Appleby, et al. :
Application No. 11/930,274 : NOTICE
Filed: October 31, 2007 :
Attorney Docket No. 1021-035 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed September 20, 2011.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WARREN A. SKLAR (SOER)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
19TH FLOOR
CLEVELAND OH 44115

MAILED
MAY 02 2011
OFFICE OF PETITIONS

In re Application of :
LUNDQUIST, et al :
Application No. 11/930,312 : DECISION ON PETITION
Filed: October 31, 2007 :
Attorney Docket No. PS07 1573US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 4, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before March 2, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed December 2, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 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 payment of the issue fee of $1510 and the publication fee of $300; (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : June 10,2011

In re Application of :

David Breed

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11930330

Filed : 31-Oct-2007

Attorney Docket No : ATI-399

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed June 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 3664 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	11930330
Filing Date	31-Oct-2007
First Named Inventor	David Breed
Art Unit	3664
Examiner Name	RODNEY KING
Attorney Docket Number	ATI-399
Title	SIDE CURTAIN AIRBAG WITH INFLATOR AT END

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☒ Applicant(s) status remains as SMALL ENTITY.

☐ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

◯ One or more claims are unpatentable ◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees) ◯ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).
RCE request,submission, and fee. ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on ☒ Are attached.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ◯ A sole inventor ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors ◯ A joint inventor; all of whom are signing this e-petition ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Brian Roffe/
Name	Brian Roffe
Registration Number	35336

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.
11/930,346	10/31/2007	Yoshimi ISU	1163-0270PUS12	9756

2292 7590 11/24/2010

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER	
BANKS HAROLD, MARSHA DENISE	
ART UNIT	**PAPER NUMBER**
2482	

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):

mailroom@bskb.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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NOV 24 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of :
ISU, YOSHIMI et al : DECISION ON REQUEST TO
Application No. 11/930,346 : PARTICIPATE IN PATENT
Filed: October 31, 2007 : PROSECUTION HIGHWAY
Attorney Docket No. **1163-0270PUS12** : PILOT PROGRAM AND PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed September 8, 2010.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the EPO or validly claims benefit under 35 U.S.C. 120 to a PCT application;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the EPO application(s);
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the EPO 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 EPO application(s) containing the allowable/patentable claim(s);
(6) Applicant must submit an IDS listing the documents cited by the EPO examiner in the EPO 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 pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Mehrdad Dastouri at 571-272-7418.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

/Mehrdad Dastouri/

Mehrdad Dastouri
Quality Assurance Specialist
Technology Center 2400

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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DIW Mar-11

TILLMAN WRIGHT, PLLC
PO BOX 49309
CHARLOTTE NC 28277-0076

MAILED

MAR 04 2011

OFFICE OF PETITIONS

In re Application of	:	
Alan Kay Snell	:	
Application Number: 11/930,349	:	ON PETITION
Filing Date: 10/31/2007	:	
Attorney Docket Number:	:	
1032.714	:	

This is a decision in response to the petition under 37 CFR 1.137(b) filed on December 20, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on August 15, 2010, for failure to timely file a response to the final Office action mailed on May 14, 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 November 24, 2010.

Receipt of the Request for Continued Examination (RCE) and submission under 37 CFR 1.114 filed on December 20, 2010, is acknowledged.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[1] The three (3)-month extension request filed on December 20, 2010, was submitted more than three (3) months after the end of the period for reply to the final Office action mailed on May 14, 2010, and therefore is unnecessary. The extension of time fee paid on December 20, 2010, will be refunded to counsel.

The application is being referred to Technology Center Art Unit 3728 for further processing.

---

[1] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SLATER & MATSIL, L.L.P.
17950 PRESTON ROAD
SUITE 1000
DALLAS, TX 75252

MAILED

MAR 21 2011

OFFICE OF PETITIONS

In re Application of :
Christoph Noelscher :
Application No. 11/930,394 : DECISION ON PETITION
Filed: October 31, 2007 : TO WITHDRAW
Attorney Docket No. QIM 2007 MN 251 US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 14, 2011.

The request is **APPROVED**.

The request was signed by Ira S. Matsil on behalf of all the practitioners of record and the practitioners associated with Customer Number 68038.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to assignee Qimonda AG 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: Qimonda AG
Gustav-Heinemann-Ring 212
Munich 81739 DE

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
11/930,394	10/31/2007	Christoph Noelscher	QIM 2007 MN 251 US

CONFIRMATION NO. 9817

68038
SLATER & MATSIL, L.L.P.
17950 PRESTON ROAD
SUITE 1000
DALLAS, TX 75252

POWER OF ATTORNEY NOTICE

OC000000046636191

Date Mailed: 03/21/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/14/2011.

- 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/930,394	10/31/2007	Christoph Noelscher	QIM 2007 MN 251 US

CONFIRMATION NO. 9817

Qimonda AG
Gustav - Heinemann - Ring 212
Munich, 81739
GERMANY

POA ACCEPTANCE LETTER

OC000000046636304

Date Mailed: 03/21/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/14/2011.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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IBM Corporation
P.O. Box 218
Yorktown Heights NY 10598

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Beaman et al.	:	
Application No. 11/930654	:	DECISION
Filing or 371(c) Date: 10/31/2007	:	ON PETITION
Attorney Docket Number: YOR919930028US43	:	

This is a decision on the "Petition to Revive Patent Application Unintentionally Abandoned Under 37 CFR 1.137(b)," filed April 6, 2010.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed August 19, 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 November 20, 2009.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 2829 for processing of the Amendment in the normal course of business.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

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JOHN W. WUSTENBERG
P.O. BOX 1431
DUNCAN, OK 73536

MAILED

OCT 22 2010

OFFICE OF PETITIONS

In re Application of :
Bruce LUCAS, et *al.* :
Application No. 11/930,756 : DECISION GRANTING PETITION
Filed: October 31, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **2007-IP-004013U1** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 13, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 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]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.134, the signature of Mr. Aaron Swehla appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Swehla desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application will be directed solely to the above-noted correspondence of record.

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2841 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **AARON SWEHLA**
BABKER & BOTTS, LLP
910 LOUISIANA STREET
HOUSTON, TX 77002-4995

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

MAILED

SEP 01 2010

OFFICE OF PETITIONS

In re Application of :
Lieping Chen :
Application No.: 11/930,789 : ON PETITION
Filed: October 31, 2007 :
Attorney Docket No.: 07039-219005 :

This is a decision on the petition, filed August 30, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 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 1644 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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Fish & Richardson PC (NY)
P.O.Box 1022
Minneapolis MN 55440-1022

MAILED
JUL 21 2011
OFFICE OF PETITIONS

In re Patent No. 7,875,702	:
Lieping Chen	: DECISION ON REQUEST FOR
Issue Date: January 25, 2011	: RECONSIDERATION OF
Application No. 11/930,789	: PATENT TERM ADJUSTMENT
Filed: October 31, 2007	: and
Attorney Docket No. 07039-219005	: NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION
Title: B7-H3 AND B7-H4, NOVEL IMMUNOREGULATORY MOLECULES	:

This is a decision on the petition filed on March 14, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred five (405) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **three hundred fifty-six (356)** days.

BACKGROUND

On January 25, 2011, the above-identified application matured into U.S. Patent No. 7,875,702, with a revised patent term adjustment of 379 days. On March 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 405. 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, which was accompanied by a request to withdraw from issue) the Office mailed a Notice of Allowance on September 21, 2010, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the period from September 21, 2010 (the mailing date of the Notice of Allowance) until January 25, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the entire over three year period of 86 days beginning on November 1, 2010 and ending on January 25, 2011, as that period began after the end of continued examination on September 21, 2010, Patentee concludes that the correct patent term adjustment is 405 days (the sum of 420 days of "A delay" and 86 days of "B delay" minus 101 days of applicant delay).

In addition, patentee discloses that an additional period of reduction of 101 days should be entered for the filing of a supplemental reply on August 30, 2010, subsequent to a reply filed on May 21, 2010.

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

Preliminarily, it is noted that patentee is correct that an additional period of reduction is warranted for the filing of papers on August 30, 2010. However, this reduction is pursuant to 37 CFR 1.704(c)(10), not 1.704(c)(8). A Notice of Allowance was mailed on February 24, 2010. Patentees filed a Request for Continued Examination (RCE) and IDS on August 30, 2010. Prior to filing the RCE, applicant paid the Issue Fee. This set the calculation of the period of reduction pursuant to 37 CFR 1.704(b), if any, for applicant delay. The filing of the RCE and IDS (and Petition to Withdraw from Issue) after the mailing of the Notice of Allowance on February 24, 2010 constituted a

failure to engage pursuant to 37 CFR 1.704(c)(10). This period is 23 days, counting the number of days in the period beginning on August 30, 2010 and ending on September 21, 2010, the date of mailing of the Notice of Allowance in response (and considering the overlapping applicant 1.704(c)(10) delay of 2 days for the filing of the petition to withdraw from issue on August 30, 2010 and decision on petition on September 1, 2010). The period of reduction of 23 days has been entered.

With respect to the over 3 year 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 0 days based on the application having been filed under 35 U.S.C. 111(a) on October 31, 2007 and a request for continued examination under 132(b) having been filed on August 30, 2010, prior to the day after the three year date, November 1, 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 period beginning on the day after the date that is three years

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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.

after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138, 139, 88 U.S.P.Q.2d, 1538 (D.D.C. 2008), because

the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[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).

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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.

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 August 30, 2010, and the patent issued by virtue of that request on January 25, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on August 30, 2010 and ending on January 25, 2011 is not included in calculating Office delay.

Given the correction of applicant delay, the Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

CONCLUSION

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **three hundred fifty-six (356) days.**

Telephone inquiries specific to this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,875,702 B2

DATED : **January 25, 2011** **DRAFT**

INVENTOR(S) : Chen

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 379 days

Delete the phrase "by 379 days" and insert – by 356 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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Minneapolis MN 55440-1022

MAILED
AUG 29 2011
OFFICE OF PETITIONS

In re Patent No. 7,875,702	:
Lieping Chen	: DECISION ON REQUEST FOR
Issue Date: January 25, 2011	: RECONSIDERATION OF
Application No. 11/930,789	: PATENT TERM ADJUSTMENT
Filed: October 31, 2007	: and
Attorney Docket No. 07039-219005	: NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION
Title: B7-H3 AND B7-H4, NOVEL IMMUNOREGULATORY MOLECULES	:

This is a decision on the renewed petition filed on August 22, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred five (405) days.

The renewed petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **three hundred ninety-seven (397)** days.

BACKGROUND

On January 25, 2011, the above-identified application matured into U.S. Patent No. 7,875,702, with a revised patent term adjustment of 379 days. On March 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 405 days. By decision mailed July 21, 2011, the Office determined that the above-identified patent was entitled to 356 days of patent term adjustment.

On renewed petition, patentee continues to maintain for the reasons set forth in the initial petition that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). However, patentee asserts that the legal issue presented is currently the subject of a civil action against the Office and believes the decision therein will be dispositive.

On renewed petition, patentee also points out that the prior decision did not address their dispute of a reduction of 41 days entered for the filing of a response to notice of allowance accompanying the issue fee on December 16, 2010.

OPINION

Patentee is correct that the reduction of 41 days is not warranted for the filing of the paper on December 16, 2010. The filing of such a paper transmitting the issue fee and responding to the notice of allowance is not a failure to engage within the meaning of 37 CFR 1.704(c)(10). The period of reduction of 41 days has been removed.

With respect to the over 3 year delay, no argument has been presently presented for reconsideration. The decision of July 21, 2011 with respect to the correctness of the calculation of B delay is affirmed.

In view thereof, the patent should have issued with a revised patent term adjustment of 397 days (undisputed 420 days of A delay - 23 days of applicant delay as entered by decision of July 21, 2011).

Given the correction of applicant delay, the Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

CONCLUSION

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **three hundred ninety-seven (397) days.**

Telephone inquiries specific to this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,875,702 B2

DATED : **January 25, 2011** **DRAFT**

INVENTOR(S) : Chen

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 379 days

Delete the phrase "by 379 days" and insert – by 397 days--

PAGE 1/1 * RCVD AT 3/16/2012 1:41:06 PM [Eastern Daylight Time] * SVR:W-PTOFAX-001/21 * DNIS:2734042 * CSID:3086606 * DURATION (mm-ss):01-03

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3-14-12

TO SPE OF : ART UNIT 2169

SUBJECT : Request for Certificate of Correction for Appl. No.: 11930834 Patent No.: 8103635

CofC mailroom date: 3-2-12

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-E
Palm Location 7580

Note: _

Omega Lewis

703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:_____

[signature] 3/16/12 — **SPE**

2169 — **Art Unit**

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

03/16/12 FRI 13:35 FAX 3086606 U-S-P-T-O 001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of :
Dong Gyu Hyun et al. :
Application No. 11/930,960 : NOTICE
Filed: October 31, 2007 :
Attorney Docket No. **317097US8** :

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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John W. Bogdan
1210 Major St.
Ottawa ON K2C 2S2
CANADA

MAILED

JAN 26 2011

PCT LEGAL ADMINISTRATION

In re Application of :DECISION ON PETITION
Bogdan :
Application No. 11/931,026 :UNDER 37 CFR 1.78(a)(3) and
Filed: October 31, 2007 :
Attorney Docket No. N/A :37 CFR 1.55(c)
For: Phase And Frequency Recovery Techniques :

This is a decision on the "Petition For Late Claim Of Foreign Priority" filed September 27, 2010, which is being construed as petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. §§ 119(a) and 120 for the benefit of the prior-filed applications set forth in the concurrently filed amendment. The petitions are **DISMISSED**, without prejudice.

Petition Under 37 CFR 1.78(a)(3)

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Regarding requirement (1), a reference to the prior-filed international application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii). With respect to requirement (2), the requisite $1410.00 surcharge (fee) has been paid.

The instant petition fails to satisfy requirement (3) because it lacks an acceptable 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.

Petition Under 37 CFR 1.55(c)

The present nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant petition fails to satisfy requirement (2) because the foreign priority claim is not included either in an oath or declaration or in an Application Data Sheet. Before the petition may be granted, this requirement must be satisfied.

Regarding requirement (4), the statement of unintentional delay appearing in the petition is being construed as 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. Applicant is required to notify this Office promptly if such interpretation is incorrect.

CONCLUSION

Accordingly, a renewed petition under 37 CFR 1.78(a)(3) and 1.55(c), including an acceptable statement of unintentional delay, as well as an oath or declaration or ADS including the foreign priority claim, must be submitted in order for the requested relief to be granted.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
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/Boris Milef/
Boris Milef
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Office of PCT Legal Administration

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JUN 07 2011

PCT LEGAL ADMINISTRATION

John W. Bogdan
1210 Major St.
Ottawa ON K2C 2S2
CANADA

In re Application of :
Bogdan :
Application No. 11/931,026 : DECISION ON PETITION
Filed: October 31, 2007 :
Attorney Docket No. N/A : UNDER 37 CFR 1.78(a)(3) and 1.55(c)
For: Phase And Frequency Recovery Techniques

This is a decision on the "Petition Under 37 CFR 1.78(a)(3)..." filed March 23, 2011, which is being construed as renewed petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. §§ 119(b), 120 and 365(c) for the benefit of the prior-filed applications set forth in the concurrently filed amendment. The petition under 37 CFR 1.78(a)(3) is **GRANTED**, while the petition under 37 CFR 1.55(c) is **DISMISSED**, without prejudice.

Petition Under 37 CFR 1.78(a)(3)

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Regarding requirement (1), a reference to the prior-filed international application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii). With respect to requirement (2), the requisite $1410.00 surcharge (fee) has been paid. Regarding requirement (3), the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

Petition Under 37 CFR 1.55(c)

The present nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant petition fails to satisfy requirement (2) because the foreign priority claim is not included either in an oath or declaration or in an Application Data Sheet. On September 27,

2010, an executed oath/declaration was received, but the claim to Canadian application 2,510,004 was not included therein. Before the petition may be granted, this requirement must be satisfied.

CONCLUSION

Accordingly, a renewed petition under 37 CFR 1.55(c), an oath or declaration or ADS including the foreign priority claim, must be submitted in order for the requested relief to be granted.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
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/Boris Milef/
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Office of PCT Legal Administration

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222 EAST 41ST ST
NEW YORK, NY 10017

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SEP 29 2011

OFFICE OF PETITIONS

In re Application of :
Ling-Ling An et al. : DECISION ON APPLICATION
Application No. 11/931,060 : FOR PATENT TERM ADJUSTMENT
Filed: October 31, 2007 :
Attorney Docket No. 12279-204-999 :

This is in response to the "Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(b)" filed September 23, 2011, which is being treated as a petition under 37 C.F.R. § 1.705(b) requesting the initial determination of patent term adjustment be corrected from six hundred fifty-one (651) days to six hundred fifty-two (652) days.

The petition is **granted to the extent indicated herein**.

The Office has updated the Office's PALM system to reflect the correct patent term adjustment determination at the time of the mailing of the Notice of Allowance is 618 days. A copy of the updated PALM screen showing the correct determination is enclosed.

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) on June 23, 2011, advising Applicants of a patent term adjustment to date of 651 days. The instant petition was subsequently filed with payment of the issue fee on September 23, 2011.

The Office's prior 651-day patent term adjustment calculation was the result of the Office reducing 652 days of delay under 37 C.F.R. § 1.702(a) ("A Delay") by one day of delay under 37 C.F.R. § 1.704 ("Applicant Delay"). Applicants assert the correct period of Applicant Delay is 0 days, not 1 day, and the correct initial patent term adjustment is 652 days, not 651 days.

Issue 1

The Office entered a 1-day reduction in patent term adjustment based on the issue fee being filed three months and one day after the date the Notice of Allowance was mailed.

Applicants assert the Office's entry of the 1-day reduction in patent term adjustment was improper because April 24, 2011, the date three months after the mailing date of the Notice of Allowance, fell on a Sunday, and the issue fee was filed on Monday, April 25, 2011. As a result

of 35 U.S.C. § 21(b), when the three-month deadline to reply to an Office action falls on a weekend or holiday, and a response is filed on the next business day, a reduction in patent term adjustment under 37 C.F.R. § 1.704(b) is inappropriate. Therefore, the Office agrees entry of the 1-day reduction in patent term adjustment was improper.

Issue 2

A review of the record indicates the Office should have entered a reduction in patent term adjustment for Applicant Delay involving the submission of an Information Disclosure Statement ("IDS") on January 20, 2011.

The first Notice of Allowance mailed in this case was mailed on October 14, 2010.

Applicants filed a Request for Continued Examination ("RCE") on January 14, 2011.

Applicants filed a Supplemental IDS on January 20, 2011.

A second Notice of Allowance was mailed February 28, 2011.

37 C.F.R. § 1.704(c)(10) states,

> [Upon] [s]ubmission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed ... the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
> (ii) Four months.

The Supplemental IDS was filed after the issuance of a Notice of Allowance and the number of days beginning January 20, 2011, the date the Supplemental IDS was filed, and ending February 28, 2011, the date the second Notice of Allowance was mailed, is 20 days. Therefore, entry of a 20-day reduction in patent term adjustment based on the submission of the January 20, 2011 Supplemental IDS is warranted.

Issue 3

A review of the record indicates the Office should have entered a reduction in patent term adjustment for Applicant Delay involving the submission of a Supplemental IDS on June 10, 2011.

As previously stated, the second Notice of Allowance was mailed February 8, 2011.

A RCE was filed May 9, 2011.

A Supplemental IDS was filed June 10, 2011.

The third and last Notice of Allowance was mailed June 23, 2011.

The June 10, 2011 Supplemental IDS was filed after the issuance of a Notice of Allowance and the number of days beginning June 10, 2011, the date the Supplemental IDS was filed, and ending June 23, 2011, the date the third Notice of Allowance was mailed, is 14 days. Therefore, entry of a 14-day reduction in patent term adjustment based on the submission of the June 10, 2011 Supplemental IDS is warranted.

Conclusion

The period of A Delay is 652 days.

The total period of Applicant Delay is 34 days, which consists of:

1. A 20-day period of delay resulting from the submission of the January 20, 2011 Supplemental IDS, and
2. A 14-day period of delay resulting from the submission of the June 10, 2011, Supplemental IDS.

The correct patent term adjustment as of the mailing date of the Notice of Allowance is 618 days, which is 652 days of A Delay reduced by 34 days of Applicant Delay.

Applicants are reminded that any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any Applicant Delay under 37 C.F.R. § 1.704(c)(10), based on the submission of any items after issuance of the June 23, 2011 Notice of Allowance, will be calculated at the time of the issuance of the patent and Applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

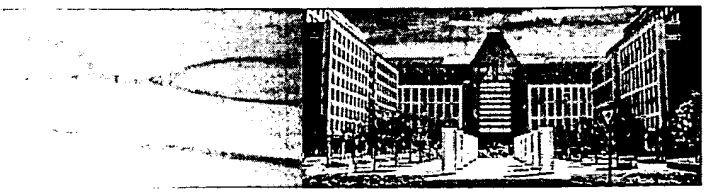
The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Patent Term Adjustments



PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11931060 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11931060

Application Filing Date	10/31/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	652
A Delays	652	PTO Manual Adjustment	-33
B Delays	0	Applicant Delay (APPL)	1
C Delays	0	Total PTA (days)	618

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
122	09/28/2011		P028	Adjustment of PTA Calculation by PTO		33	0
110	06/23/2011		MN/=.	Mail Notice of Allowance			0
109	06/21/2011		OAR	Office Action Review			0
108	06/21/2011		OAR	Office Action Review			0
107	06/21/2011		IREV	Issue Revision Completed			0
106	06/21/2011		DVER	Document Verification			0
105	06/21/2011		N/=.	Notice of Allowance Data Verification Completed			0
101	06/20/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
100	06/20/2011		EX.R	Reasons for Allowance			0
99	06/20/2011		CNTA	Allowability Notice			0
104	06/10/2011		M844	Information Disclosure Statement (IDS) Filed			0
103	06/10/2011		RCAP	Reference capture on IDS			0
102	06/10/2011		M844	Information Disclosure Statement (IDS) Filed			0
98	06/10/2011		IDSC	Information Disclosure Statement considered			0
97	06/10/2011		IDSC	Information Disclosure Statement considered			0
96	06/10/2011		IDSC	Information Disclosure Statement considered			0
95	06/10/2011		IDSC	Information Disclosure Statement considered			0
93	06/10/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
92	06/10/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
91	06/10/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
90	06/10/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
81	05/10/2011		ABN9	Disposal for a RCE / CPA / R129			0
94	05/09/2011		IDSC	Information Disclosure Statement considered			0
85	05/09/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
84	05/09/2011		RCAP	Reference capture on IDS			0
83	05/09/2011		M844	Information Disclosure Statement (IDS) Filed			0
82	05/09/2011	05/08/2011	RCEX	Request for Continued Examination (RCE)		1	76
80	05/09/2011		BRCE	Workflow - Request for RCE - Begin			0
79	03/03/2011		CRFT	Sequence Forwarded to Pubs on Tape			0
78	02/11/2011		EIDC	Export to Initial Data Capture			0
76	02/08/2011		MN/=.	Mail Notice of Allowance			0
75	02/08/2011		IREV	Issue Revision Completed			0
74	02/08/2011		DVER	Document Verification			0
73	02/01/2011		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
72	01/31/2011		N/=.	Notice of Allowance Data Verification Completed			0
71	01/31/2011		CNTA	Allowability Notice			0
77	01/20/2011		LET.	Miscellaneous Incoming Letter			0
70	01/20/2011		IDSC	Information Disclosure Statement considered			0
68	01/20/2011		M844	Information Disclosure Statement (IDS) Filed			0
67	01/20/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
63	01/19/2011		FWDX	Date Forwarded to Examiner			0
60	01/19/2011		ABN9	Disposal for a RCE / CPA / R129			0
69	01/14/2011		IDSC	Information Disclosure Statement considered			0
65	01/14/2011		RCAP	Reference capture on IDS			0
64	01/14/2011		M844	Information Disclosure Statement (IDS) Filed			0
62	01/14/2011		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
61	01/14/2011		RCEX	Request for Continued Examination (RCE)			0
59	01/14/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
58	01/14/2011		BRCE	Workflow - Request for RCE - Begin			0
56	01/10/2011		MEX.A	Mail Examiner's Amendment			0
57	01/07/2011		FIDC	Finished Initial Data Capture			0
55	01/07/2011		EX.A	Examiner's Amendment Communication			0
54	01/05/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
53	11/04/2010		CRFT	Sequence Forwarded to Pubs on Tape			0
52	10/19/2010		EIDC	Export to Initial Data Capture			0

51	10/14/2010		MEX.A	Mail Examiner's Amendment		0
50	10/14/2010	12/31/2008	MN/=.	Mail Notice of Allowance	652	0.5
49	10/12/2010		IREV	Issue Revision Completed		0
48	10/12/2010		N/=.	Notice of Allowance Data Verification Completed		0
47	10/12/2010		DOCK	Case Docketed to Examiner in GAU		0
46	10/12/2010		DVER	Document Verification		0
45	10/12/2010		EX.A	Examiner's Amendment Communication		0
44	10/12/2010		CNTA	Allowability Notice		0
43	09/28/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)		0
34	09/28/2010		A.PE	Preliminary Amendment		0
36	09/16/2010		IDSC	Information Disclosure Statement considered		0
33	09/16/2010		WIDS	Information Disclosure Statement (IDS) Filed		0
32	09/16/2010		M844	Information Disclosure Statement (IDS) Filed		0
31	07/28/2010		DOCK	Case Docketed to Examiner in GAU		0
30	07/01/2010		TI1050	Transfer Inquiry to GAU		0
28	03/22/2010		DOCK	Case Docketed to Examiner in GAU		0
27	08/03/2009		PA..	Change in Power of Attorney (May Include Associate POA)		0
26	07/30/2009		C.AD	Correspondence Address Change		0
37	06/11/2009		IDSC	Information Disclosure Statement considered		0
25	06/11/2009		A.PE	Preliminary Amendment		0
24	06/11/2009		RCAP	Reference capture on IDS		0
23	06/11/2009		M844	Information Disclosure Statement (IDS) Filed		0
22	06/11/2009		WIDS	Information Disclosure Statement (IDS) Filed		0
21	12/09/2008		DOCK	Case Docketed to Examiner in GAU		0
20	12/09/2008		DOCK	Case Docketed to Examiner in GAU		0
19	06/25/2008		DOCK	Case Docketed to Examiner in GAU		0
18	05/22/2008		PG-ISSUE	PG-Pub Issue Notification		0
17	04/22/2008		TSSCOMP	IFW TSS Processing by Tech Center Complete		0
14	03/11/2008		OIPE	Application Dispatched from OIPE		0
11	02/11/2008		FLRCPT.U	Filing Receipt - Updated		0
10	02/11/2008		COMP	Application Is Now Complete		0
12	02/09/2008		PGPC	Sent to Classification Contractor		0
35	02/08/2008		IDSC	Information Disclosure Statement considered		0
16	02/08/2008		RCAP	Reference capture on IDS		0
15	02/08/2008		M844	Information Disclosure Statement (IDS) Filed		0
13	02/08/2008		WIDS	Information Disclosure Statement (IDS) Filed		0
9	02/01/2008		ADDFLFEE	Additional Application Filing Fees		0
8	02/01/2008		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic		0
7	12/12/2007		FLRCPT.O	Filing Receipt		0
6	12/12/2007		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned		0
4	11/21/2007		CRFE	CRF Is Good Technically / Entered into Database		0
3	11/09/2007		L194	Cleared by OIPE CSR		0
2	11/02/2007		SCAN	IFW Scan & PACR Auto Security Review		0
5	10/31/2007		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT		0
1	10/31/2007		IEXX	Initial Exam Team nn		0
0.5	10/31/2007		EFILE	Filing date		0

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OFFICE OF PETITIONS

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222 EAST 41ST ST
NEW YORK, NY 10017

In re Patent of Ling-Ling An et al.	:	DECISION ON REQUEST
Patent No. 8,067,002	:	FOR RECONSIDERATION OF
Issue Date: November 29, 2011	:	PATENT TERM ADJUSTMENT
Application No. 11/931,060	:	AND NOTICE OF INTENT TO
Filing Date: October 31, 2007	:	ISSUE CERTIFICATE OF
Attorney Docket No. 12279-204-999	:	CORRECTION

This is a decision on the petition filed November 28, 2011, which requests reconsideration of the Office' s prior determination that entry of a 20-day reduction and a 14-day reduction are warranted under 37 C.F.R. § 1.704(c)(10).

The petition is **GRANTED to the extent indicated herein**.

The Office intends to *sua sponte* issue a certificate of correction indicating the correct patent term adjustment is 689 days. However, pursuant to 37 C.F.R. § 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 to this decision. In other words, if Patentees wish to dispute the 689-day determination, a request for reconsideration of the instant decision must be filed within **one (1) month or thirty (30) days**, whichever is longer, from the mail date of the instant decision. Extensions of time may not be obtained under 37 C.F.R. § 1.136.

No portion of this decision should be construed as a waiver of the requirement, set forth in 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 has determined a reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8), not 37 C.F.R. § 1.704(c)(10), is warranted under the following scenario:

(1) A Notice of Allowance is issued;
(2) A Request for Continued Examination ("RCE") is filed;

(3) A Supplemental Information Disclosure Statement ("IDS"), which is not accompanied by a statement under 37 C.F.R. § 1.704(d), is filed on a date after the date the RCE was filed; and
(4) The Office mails another Notice of Allowance.

The facts at issue in this case fall within the scenario set forth above. Therefore, reductions in patent term adjustment under 37 C.F.R. § 1.704(c)(8), *not* 37 C.F.R. § 1.704(c)(10), are warranted.

In view of the prior discussion, the Office agrees with the assertion Petitioners' assertion the Office's prior entry of a 14-day and a 20-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(10) was improper.

The number of days starting from the day after January 14, 2011, the date the first RCE was filed, and ending on January 20, 2011, the date a supplemental IDS was filed, is 6 days. Therefore, the submission of the January 20, 2011 Supplemental IDS warrants entry of a 6-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8).

The number of days starting from the day after May 9, 2011, the date the second RCE was filed, and ending on June 10, 2011, the date a supplemental IDS was filed, is 31 days. Therefore, the submission of the June 10, 2011 Supplemental Amendment warrants entry of a 31-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8).

The patent issued on November 29, 2011. The patent sets forth a patent term adjustment determination of 692 days, which is 726 days reduced by 34 days of delay under 37 C.F.R. § 1.704(c)(10). However, the correct patent term adjustment is 689 days, which is 726 days reduced by 37 (6 + 31) days for delay under 37 C.F.R. § 1.704(c)(8). Therefore, a certificate of correction setting for a patent term adjustment determination of 689 days will be issued in due course.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **six hundred and eighty-nine (689)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	8,067,002 B2
APPLICATION NO.	:	11/931,060
DATED	:	November 29, 2011
INVENTOR(S)	:	Ling-Ling An et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 692 days.

Delete the phrase "by 692 days" and insert -- by 689 days--

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In re Patent of Ling-Ling An et al.	:	DECISION ON REQUEST
Patent No. 8,067,002	:	FOR RECONSIDERATION OF
Issue Date: November 29, 2011	:	PATENT TERM ADJUSTMENT
Application No. 11/931,060	:	AND NOTICE OF INTENT TO
Filing Date: October 31, 2007	:	ISSUE CERTIFICATE OF
Attorney Docket No. 12279-204-999	:	CORRECTION

This is a corrected decision on the petition filed November 28, 2011, which requests reconsideration of the Office' s prior determination that entry of a 20-day reduction and a 14-day reduction are warranted under 37 C.F.R. § 1.704(c)(10).

The petition is **GRANTED to the extent indicated herein**.

Changes to the Prior Decision

The instant corrected decision is substantially the same as the prior decision except for the following matters:

1. This decision indicates the June 10, 2011 submission of a supplemental information disclosure statement ("IDS") should have resulted in a 32-day, not a 31-day, reduction in patent term adjustment; and
2. This decision indicates the correct patent term adjustment, as of the issuance date of the Notice of Allowance, is 690 days, not 689 days.

Discussion

The Office intends to *sua sponte* issue a certificate of correction indicating the correct patent term adjustment is 690 days. However, pursuant to 37 C.F.R. § 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 to this decision. In other words, if Patentees wish to dispute the 690-day determination, a request for reconsideration of the instant decision must be filed within **one (1) month or thirty (30) days**, whichever is longer, from the mail date of the instant decision. Extensions of time may not be obtained under 37 C.F.R. § 1.136.

No portion of this decision should be construed as a waiver of the requirement, set forth in 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 has determined a reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8), not 37 C.F.R. § 1.704(c)(10), is warranted under the following scenario:

(1) A Notice of Allowance is issued;
(2) A Request for Continued Examination ("RCE") is filed;
(3) A Supplemental Information Disclosure Statement ("IDS"), which is not accompanied by a statement under 37 C.F.R. § 1.704(d), is filed on a date after the date the RCE was filed; and
(4) The Office mails another Notice of Allowance.

The facts at issue in this case fall within the scenario set forth above. Therefore, reductions in patent term adjustment under 37 C.F.R. § 1.704(c)(8), *not* 37 C.F.R. § 1.704(c)(10), are warranted.

In view of the prior discussion, the Office agrees with the assertion Petitioners' assertion the Office's prior entry of a 14-day and a 20-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(10) was improper.

The number of days starting from the day after January 14, 2011, the date the first RCE was filed, and ending on January 20, 2011, the date a supplemental IDS was filed, is 6 days. Therefore, the submission of the January 20, 2011 Supplemental IDS warrants entry of a 6-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8).

The number of days starting from the day after May 9, 2011, the date the second RCE was filed, and ending on June 10, 2011, the date a supplemental IDS was filed, is 32 days. Therefore, the submission of the June 10, 2011 Supplemental Amendment warrants entry of a 32-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8).

The patent issued on November 29, 2011. The patent sets forth a patent term adjustment determination of 692 days, which is 726 days reduced by 34 days of delay under 37 C.F.R. § 1.704(c)(10). However, the correct patent term adjustment is 689 days, which is 726 days reduced by 38 (6 + 32) days for delay under 37 C.F.R. § 1.704(c)(8). Therefore, a certificate of correction setting for a patent term adjustment determination of 690 days will be issued in due course.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **six hundred and ninety (690)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	8,067,002 B2
APPLICATION NO.	:	11/931,060
DATED	:	November 29, 2011
INVENTOR(S)	:	Ling-Ling An et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 692 days.

Delete the phrase "by 692 days" and insert -- by 690 days--

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In re Patent of Ling-Ling An et al.	:	DECISION ON REQUEST
Patent No. 8,067,002	:	FOR RECONSIDERATION OF
Issue Date: November 29, 2011	:	PATENT TERM ADJUSTMENT
Application No. 11/931,060	:	AND NOTICE OF INTENT TO
Filing Date: October 31, 2007	:	ISSUE CERTIFICATE OF
Attorney Docket No. 12279-204-999	:	CORRECTION

This is a corrected decision on the petition filed November 28, 2011, which requests reconsideration of the Office' s prior determination that entry of a 20-day reduction and a 14-day reduction are warranted under 37 C.F.R. § 1.704(c)(10).

The petition is **GRANTED to the extent indicated herein**.

Discussion

The Office intends to *sua sponte* issue a certificate of correction indicating the correct patent term adjustment is **688 days**. However, pursuant to 37 C.F.R. § 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 to this decision. In other words, if Patentees wish to dispute the 688-day determination, a request for reconsideration of the instant decision must be filed within **one (1) month or thirty (30) days**, whichever is longer, from the mail date of the instant decision. Extensions of time may not be obtained under 37 C.F.R. § 1.136.

No portion of this decision should be construed as a waiver of the requirement, set forth in 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 has determined a reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8), not 37 C.F.R. § 1.704(c)(10), is warranted under the following scenario:

(1) A Notice of Allowance is issued;
(2) A Request for Continued Examination ("RCE") is filed;

(3) A Supplemental Information Disclosure Statement ("IDS"), which is not accompanied by a statement under 37 C.F.R. § 1.704(d), is filed on a date after the date the RCE was filed; and
(4) The Office mails another Notice of Allowance.

The facts at issue in this case fall within the scenario set forth above. Therefore, reductions in patent term adjustment under 37 C.F.R. § 1.704(c)(8), *not* 37 C.F.R. § 1.704(c)(10), are warranted.

In view of the prior discussion, the Office agrees with the assertion Petitioners' assertion the Office's prior entry of a 14-day and a 20-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(10) was improper.

The number of days starting from the day after January 14, 2011, the date the first RCE was filed, and ending on January 20, 2011, the date a supplemental IDS was filed, is 6 days. Therefore, the submission of the January 20, 2011 Supplemental IDS warrants entry of a 6-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8).

The number of days starting from the day after May 9, 2011, the date the second RCE was filed, and ending on June 10, 2011, the date a supplemental IDS was filed, is 32 days. Therefore, the submission of the June 10, 2011 Supplemental Amendment warrants entry of a 32-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8).

The patent issued on November 29, 2011. The patent sets forth a patent term adjustment determination of 692 days, which is 726 days reduced by 34 days of delay under 37 C.F.R. § 1.704(c)(10). However, the correct patent term adjustment is 688 days, which is 726 days reduced by 38 (6 + 32) days for delay under 37 C.F.R. § 1.704(c)(8). Therefore, a certificate of correction setting for a patent term adjustment determination of 688 days will be issued in due course.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **six hundred and eighty-eight (688)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	8,067,002 B2
APPLICATION NO.	:	11/931,060
DATED	:	November 29, 2011
INVENTOR(S)	:	Ling-Ling An et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 692 days.

Delete the phrase "by 692 days" and insert -- by 688 days--

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TODD T. TAYLOR
TAYLOR & AUST, P.C.
142 S. MAIN STREET
P.O. BOX 560
AVILLA IN 46710

In re Application of
Herbert Boden et al
Application No. 11/931,221
Filed: October 31, 2007
Attorney Docket No. VO10513.US

DECISION ON PETITION

This is a decision on the petition, filed May 21, 2010, which is being treated as a petition under 37 CFR 1.181 (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 Restriction Requirement Office action mailed October 29, 2009, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on May 12, 2010.

Petitioner asserts that the Office action dated October 29, 2009, was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket

and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

Further, Office records show where the Office action mailed October 29, 2009, was returned as undelivered on November 2, 2009. Office records do not indicate that the Office action was re-mailed.

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 3743 for re-mailing the Office action of October 29, 2009. The period for reply will run from the mailing date of the Office action.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Not remailed

In re Application of	)	
Herbert Boden et al.	)	Group: 3682
Serial No.: 11/931,221	)	
Filed: October 31, 2007	)	
Title: DRYING ROLL	)	Examiner: Thomas R. Hannon

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Director of the U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. 1.181(a) and M.P.E.P. 711.03(c)(I), Applicant respectfully requests the withdrawal of the holding of abandonment in the above-identified patent application. In support of this Petition to Withdraw Holding of Abandonment, Applicants state as follows:

1. The above-identified application was filed on October 31, 2007.

2. The Public PAIR website of the U.S. Patent and Trademark Office Public for the above-identified application has an entry dated October 29, 2009 indicating that an Office Action (a restriction requirement) was mailed to Todd T. Taylor at Taylor & Aust, P.C., 142 S. Main Street, P.O. Box 560, Avilla, Indiana 46710 on October 29, 2009 regarding the above-identified application.

3. The Public PAIR website of the U.S. Patent and Trademark Office Public for the above-identified application also has an entry dated November 2, 2009 indicating that mail was returned to the U.S. Patent and Trademark Office as undeliverable. The mail returned to the U.S. Patent and Trademark Office was the Office Action of October 29, 2009. Further, this entry also contains a copy of the front of an envelope which has a return address related to the U.S. Patent and Trademark Office and has a postmark of October 29, 2009. The copy of this envelope, however, does not show the mailing address of the addressee. Since the mailing address of the

addressee is not visible on the front of this envelope, Applicant submits that possibly the document inside the envelope containing the mailing address was improperly positioned in the envelope such that the mailing address was not visible through the envelope's window.

4. On or about Monday, May 17, 2010, the law firm of Taylor & Aust, P.C. (U.S. patent counsel for Applicants concerning the above-identified application) received a Notice of Abandonment dated May 12, 2010 from the U.S. Patent and Trademark Office regarding the above-identified application. The Notice of Abandonment dated May 12, 2010 states that the above-identified application was "abandoned in view of: Applicant's failure to timely file a proper reply to the Office letter mailed on 29 October 2009" in that "[n]o reply has been received" by the U.S. Patent and Trademark Office.

5. The correspondence address of record with the U.S. Patent and Trademark Office relative to the above-identified application is Todd T. Taylor, Taylor & Aust, P.C., 142 S. Main Street, P.O. Box 560, Avilla, Indiana 46710 (hereinafter "the correspondence address of record").

6. A search of the records for the above-identified patent application maintained by Taylor & Aust, P.C. was performed on May 18, 2010 by Attorney Kelly R. Bailey and indicates that the Office Action of October 29, 2009 was not received at the correspondence address of record.

7. The system used during all relevant times for recording Office Actions received at the correspondence address of record from the U.S. Patent and Trademark Office was sufficiently reliable. In support thereof, Applicant states the following:

a. Upon receipt of an Office Action at the correspondence address of record, office policy for Taylor & Aust, P.C. at the correspondence address of record provides that an employee of Taylor & Aust, P.C. enters information concerning the Office Action and the application involved into the Case Tracking System on the office's master Reminder List which is

maintained on the office computer system for Taylor & Aust, P.C. at the correspondence address of record. The information entered is the following: the date due; the responsible attorney/agent; what is due (i.e., a response to a restriction requirement); case number (i.e., attorney docket number); application serial number; and case title (i.e., the title of the patent application). Exhibit 1 contains two pages of documents labeled as follows: page A is a listing of the 2009 docket reports on the office computer system for the office at the correspondence address of record (page A was printed out on May 18, 2010 by using the "print screen" function on an office computer); and page B is page 6 of the report of the Reminder List created on November 16, 2009 and is thus page 6 of the entry entitled "Reminder List Report 11-16-09.doc" on page A of Exhibit 1. Page B shows a date of May 18, 2010 in the top-left corner of the document because this copy of page 6 of the Reminder List report created on November 16, 2009 was printed out on May 18, 2010. Pursuant to office policy, page B of Exhibit 1 should show an entry for VOI0513.US (the above-identified application) on November 29, 2009 if Taylor & Aust, P.C. had received a copy of the Office Action of October 29, 2009 at the correspondence address of record. Page B of Exhibit 1, however, does not include such an entry. Further, certain information has been blacked-out from page B of Exhibit 1 as being immaterial to this petition; in each instance, the attorney docket number/case number is still provided, none being VOI0513.US.

b. Upon receipt of an Office Action at the correspondence address of record, office policy for Taylor & Aust, P.C. at the correspondence address of record provides that the nature of the Office Action (i.e., restriction requirement) and the due date of the response to the Office Action are handwritten onto the front cover of the individual file jacket for the application. Exhibit 2 shows a photocopy of the front cover of the file jacket for the above-identified application, the file jacket and its contents being maintained by Taylor & Aust, P.C. at the correspondence address of record. Pursuant to office policy, the front cover of the file jacket

should show an Office Action or restriction requirement having a due date of November 29, 2009 if Taylor & Aust, P.C. had received a copy of the Office Action of October 29, 2009 at the correspondence address of record. The column entitled "Office Actions" in Exhibit 2, however, does not contain an entry showing a restriction requirement being due on November 29, 2009, or any entry corresponding to the Office Action of October 29, 2009.

c. Upon receipt of an Office Action at the correspondence address of record, office policy for Taylor & Aust, P.C. at the correspondence address of record provides that the attorney docket number for the application, at a minimum, is handwritten onto a desk calendar on the date that the response to the Office Action must be filed to avoid extension fees. Exhibit 3 contains two pages of documents, one page being a copy of the desk calendar for Sunday, November 29, 2009 and the other page being a copy of the desk calendar for Monday, November 30, 2009, both maintained by Taylor & Aust, P.C. at the correspondence address of record. With respect to the desk calendar, an entry is made on the Monday following a due date which falls on a Saturday or Sunday (if that Monday is not a federal holiday). Pursuant to office policy, an entry should appear on the desk calendar for Monday, November 30, 2009 for VOI0513.US if Taylor & Aust, P.C. had received a copy of the Office Action of October 29, 2009 at the correspondence address of record. Exhibit 3 shows no such entry appearing on the desk calendar for either Sunday, November 29, 2009 or Monday, November 30, 2009.

8. The Office Action of October 29, 2009 was not received at the correspondence address of record until on or about May 17, 2010 in conjunction with the Notice of Abandonment of May 12, 2009.

Accordingly, Applicants respectfully request that the Director withdraw the holding of abandonment in U.S. patent application number 11/931,221 and remail the Office Action at issue.

Pursuant to M.P.E.P. 711.03(c)(I), a petition under 37 CFR 1.181(a) does not require a fee. However, if any additional fee is required, please charge to Account No. 20-0095, Taylor & Aust, P.C.

Should any question concerning any of the foregoing arise, the Examiner is invited to telephone the undersigned at (260) 897-3400.

Respectfully submitted,

/Kelly R. Bailey Reg. No. 57284/

Kelly R. Bailey
Registration No. 57,284

Attorney for Applicant

KRB/lp

Electronically filed May 21, 2010

TAYLOR & AUST, P.C.
142 S. Main Street
P.O. Box 560
Avilla, IN 46710
Telephone: 260-897-3400
Facsimile: 260-897-9300

Enc.: Exhibits 1-3

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/931,221	10/31/2007	Herbert Boden	VOI0513.US	1908

7590 10/29/2009

Todd T. Taylor
Taylor & Aust, P.C.
142 S. Main Street
P.O. Box 560
Avilla, IN 46710

EXAMINER	
GRAVINI, STEPHEN MICHAEL	
ART UNIT	PAPER NUMBER
3743	
MAIL DATE	DELIVERY MODE
10/29/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/02/10

TO SPE OF : ART UNIT 2613

SUBJECT : Request for Certificate of Correction for Appl. No.: 11931281 Patent No.: 7773879

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.

XApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

/Kenneth Vanderpuye/ **2613**
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

MAILED

JUL 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Onggosanusi et al.	:	
Application No. 11/931,311	:	DECISION ON PETITION
Filed: October 31, 2007	:	
Attorney Docket No. TI-34194A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 5, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 22, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 25, 2010. A Notice of Abandonment was mailed February 9, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Technology Center AU 2611 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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CARLSON, GASKEY & OLDS/PRATT & WHITNEY
c/o CPA Global
P.O. Box 52050
Minneapolis MN 55402

MAILED
MAR 29 2012
OFFICE OF PETITIONS

In re Application of :
Lomasney et al. :
Application No. 11/931,318 :
Filed: October 31, 2007 : DECISION ON PETITION
Attorney Docket No. PA-5048-U: : UNDER 37 C.F.R. § 1.137(B)
67097-1225 :
Title: ORGANIC MATRIX COMPOSITE :
COMPONENTS, SYSTEMS USING SUCH :
COMPONENTS, AND METHODS FOR :
MANUFACTURING SUCH COMPONENTS

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed February 28, 2012, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed May 10, 2011, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 11, 2011. A notice of abandonment was mailed on November 23, 2011.

On February 28, 2012, Petitioner filed a RCE along with the associated fee, the petition fee, the proper statement of unintentional delay, an amendment and drawings along with an amendment directing the entry of said drawings.

The RCE has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1). As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on February 28, 2012- can be processed in due course.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted.

A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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

---

1 See Rule 1.137(d).

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

cc: Lloyd D. Doigan
400 West Maple Street
Birmingham, MI 48009

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.
11/931,375	10/31/2007	Nicolas VOYER	317329US6DIV	1099

22850 7590 03/01/2011

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
HO, DUC CHI	
ART UNIT	**PAPER NUMBER**
2465	

NOTIFICATION DATE	DELIVERY MODE
03/01/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

FEB 28 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

In re Application of: VOYER, NICOLAS et al.
Application No. 11931375
Filed: October 31, 2007
For: MOBILE RADIO COMMUNICATION SYSTEM, COMMUNICATION APPARATUS APPLIED IN MOBILE RADIO COMMUNICATION SYSTEM, AND MOBILE RADIO COMMUNICATION METHOD

DECISION ON REQUEST FOR CONSIDERATION OF INFORMATION DISCLOSURE

This is a decision on the petition under 37 C.F.R. 1.181, filed January 19, 2011 requesting review of the examiner's failure to consider certain documents cited in the Information Disclosure Statements filed on October 31, 2007 and on January 24, 2008.

The petition is **DISMISSED AS MOOT**.

The petition states that Examiner fails to consider Document (AU) cited in the IDS filed October 31, 2007 and Documents (AA) and (AB) filed January, 2008.
A review of the application file record indicates that: (1) Document (AU) cited in the IDS filed October 31, 2007, previously crossed out by Examiner, was subsequently considered by Examiner on February 7, 2011 and that this was communicated to Applicant in a Supplemental Notice of Allowance mailed February 14, 2011; (2) Documents (AA) and (AB) cited in the IDS filed January 24, 2008 were considered by Examiner on May 31, 2010 and an this was communicated to Applicant in the Notice of Allowability mailed June 21, 2010. It should be noted that the two documents in question were redundantly cited in two IDS lists that were both submitted on January 24, 2008; a first list cited other documents along with the two documents in question, and a second list cited only the two documents in question. Examiner has initialed next to all documents in the first list including the two documents in question, as shown below.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/931,413	10/31/2007	Yoshimi ISU	1163-0270PUS10	1145

2292 7590 11/24/2010
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER
BANKS HAROLD, MARSHA DENISE

ART UNIT	PAPER NUMBER
2482	

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):

mailroom@bskb.com

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NOV 24 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of :
ISU, YOSHIMI et al :
Application No. 11/931,413 :
Filed: October 31, 2007 :
Attorney Docket No. **1163-0270PUS10** :

DECISION ON REQUEST TO
PARTICIPATE IN PATENT
PROSECUTION HIGHWAY
PILOT PROGRAM AND PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed September 8, 2010.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the EPO or validly claims benefit under 35 U.S.C. 120 to a PCT application;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the EPO application(s);
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the EPO 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 EPO application(s) containing the allowable/patentable claim(s);
(6) Applicant must submit an IDS listing the documents cited by the EPO examiner in the EPO 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 pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Mehrdad Dastouri at 571-272-7418.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

/Mehrdad Dastouri/

Mehrdad Dastouri
Quality Assurance Specialist
Technology Center 2400

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/141 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**Petition to Correct Assignee After Payment of Issue Fee (37 CFR 3.81(b))**
Application Number	11931416
Filing Date	31-Oct-2007
First Named Inventor	Yong Kim
Attorney Docket Number	102170-0003
Title of Invention	MATERIALS METHODOLOGY TO IMPROVE THE DELAMINATION STRENGTH OF LAMINAR COMPOSITES

Pursuant to 37 CFR 3.81(b), applicant hereby request that the listed assignee with respect to U.S. Patent Number 7981495 be corrected to accurately reflect the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

☒ I certify, in accordance with 37 CFR 1.4(d)(4), that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent.

Correction of Assignee

Current Assignment Listed (240 char limit)
The assignment information is currently listed as:

Invensys Systems, Inc., Foxboro, MA (US); University of Massachusetts, Worcester, MA (US)

Update Assignment Listing to (240 char limit)

Change assignment information to the following:

University of Massachusetts, Worcester, MA (US)

☒ As required by 37 CFR 3.81, a Request for a Certificate of Correction is being filed herewith, along with the fee set forth in 37 CFR 1.20(a).

◯ Applicant(s) status remains as OTHER THAN small entity.

◯ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

◉ Applicant(s) status remains as SMALL ENTITY.

◯ Applicant is no longer claiming small entity status. See 37 CFR 1.27(g)(2).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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 request

◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Lauren E. Ingegneri/
Name	Lauren E. Ingegneri
Registration Number, if applicable	63494

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date:	February 27, 2012
In re Patent No.	7981495
Issue Date:	19-Jul-2011
Application No	11931416
Filed date	31-Oct-2007
Attorney Docket No	102170-0003

DECISION ON REQUEST
UNDER 37 CFR 3.81(b)

This is an electronic decision on the request filed February 27, 2012 under 37 CFR 3.81(b) to correct the name of the assignee of the above-identified patent by way of a Certificate of Correction.

Petitioner request that the listed assignment information be replace with updated assignment information.
Assignment Information Currently Listed As:

Invensys Systems, Inc., Foxboro, MA (US); University of Massachusetts, Worcester, MA (US)

Change Assignment Information to the Following:

University of Massachusetts, Worcester, MA (US)

The request is GRANTED.

Telephone inquiries concerning this decision may be directed to the the Patent Electronic Business Center (EBC) at 866-217-9197.

Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificate of Correction Branch will be notified of this decision granting the request under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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VOLPE AND KOENIG, P.C.
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

MAILED
JAN 03 2012
OFFICE OF PETITIONS

In re Application of	:	
Russell A. Jordan, et al.	:	
Application No. 11/931,514	:	DECISION ON PETITION
Filed: October 31, 2007	:	UNDER 37 CFR 1.313(c)(1)
Attorney Docket No. RCP-PT001.1	:	

This is a decision on the petition under 37 CFR 1.313(c), filed December 30, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

> Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:
> (1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
> (2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or
> (3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

A request for continued examination must be filed with petition to withdraw from issue in order for the amendment and petition under 37 CFR 1.78 to be considered.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-0025
Office of Petitions

Any questions concerning this matter may be directed to Terri Johnson at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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VOLPE AND KOENIG, P.C.
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

MAILED
JAN 10 2012
OFFICE OF PETITIONS

In re Application of	:	
Russell A. Jordan, et al.	:	
Application No. 11/931,514	:	DECISION GRANTING PETITION
Filed: October 31, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. RCP-PT001.1	:	

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed, January 10, 2012 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 7, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3732 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and priority claim petition.

/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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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/931,549	10/31/2007	Jang-Hyun YEO	KORY02555 US	1327

90323 7590 12/13/2011

Innovation Counsel LLP
21771 Stevens Creek Blvd
Ste. 200A
Cupertino, CA 95014

EXAMINER	
SITTA, GRANT	

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
12/13/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

Innovation Counsel LLP
21771 Stevens Creek Blvd
Ste. 200A
Cupertino CA 95014

In re Application of:
YEO, JANG-HYEN, et al
Application Serial No.: 11/931,549
Filed: October 31, 2007
For: **LIQUID CRYSTAL DISPLAY DEVICE, SYSTEM AND METHODS OF COMPENSATING FOR DELAYS OF GATE DRIVING SIGNALS THEREOF**

DECISION
ON PETITION

This is a decision on the petition filed October 26, 2011 under 37 CFR § 1.181, requesting to withdraw the Request for Continued Examination (RCE) filed October 20, 2011, enter the amendment, and refund the fees paid on filing of the RCE.

PERTINENT BACKGROUND

A final Office action was issued July 27, 2011, rejecting claims 1-3 and 17-20 under 35 USC 103(a) as being unpatentable over McCartney et al in view of Izeki and further in view of Yamaguchi et al. Claim 16 was rejected under 35 USC 103(a) as being unpatentable over McCartney et al in view of Izeki. Claims 21-22 were rejected under 35 USC 103(a) as being unpatentable over McCartney et al in view of Ishii et al. Claims 4-5 and 8-15 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

An after-final amendment was timely filed on September 20, 2011 amending claims 1, 3, 5, 9, 16 and 21-22, and also canceling claims 4 and 6-7.

An advisory action was issued October 3, 2011 indicating the proposed amendment would not be entered because they raised new issues that would require further consideration and/or search.

On October 20, 2011, a Request for Continued Examination was filed and included an amendment to claims 1, 5, and 8, while canceling claims 2-4, 6-7, and 16-22.

On October 26, 2011, petitioner filed a petition under 37 CFR 1.181 requesting to withdraw the Request for Continued Examination, enter the amendment filed with the Request for Continued Examination, and refund the fee paid on filing of the Request for Continued Examination.

Petitioner states that the Request for Continued Examination was unnecessary because the amendment included the allowable subject matter indicated on page 15 of the Office action of July 27, 2011 and therefore placed the application in condition for allowance.

REGULATIONS AND PRACTICE

MPEP §706.07(f) [R-6] Time for Reply to Final Rejection, states in part:

> [I]f the reply is filed within 2 months of the date of the final Office action, the shortened statutory period will expire at 3 months from the date of the final rejection or on the date the advisory action is mailed, whichever is later.

MPEP 37 CFR § 1.114 Request for continued examination, states:

> (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.
> (c) A submission as used in this section 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. If reply to an Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of § 1.111.
> (d) If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered. If an applicant files a request for continued examination under this section after appeal, but prior to a decision on the appeal, it will be treated as a request to withdraw the appeal and to reopen prosecution of the application before the examiner. An appeal brief (§ 41.37 of this title) or a reply brief (§ 41.41 of this title), or related papers, will not be considered a submission under this section.

OPINION

A review of the record finds that the Request for Continued Examination filed October 20, 2011 was a proper filing in response to the final Office action mailed July 27, 2011. The Request for Continued Examination has been processed and entered in the application file along with the amendment filed October 20, 2011. Accordingly, the prosecution in the instant application has been reopened before the examiner.

CONCLUSION

For the above stated reasons, the petition to withdrawn the Request for Continued Examination and refund fees for the Request for Continued Examination is **Dismissed as Moot**.

A response to the amendment filed with the Request for Continued Examination on October 20, 2011 will be issued in due course.

Any inquiry regarding this decision should be directed to Doris To, Quality Assurance Specialist, at (571) 272-7629.

Richard K. Seidel, Director
Technology Center 2600
Communications

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MEREDITH & KEYHANI, PLLC
330 MADISON AVE.
6TH FLOOR
NEW YORK NY 10017

MAILED

MAR 25 2011

OFFICE OF PETITIONS

In re Application of	:	
Jay CHUN	:	
Application No. 11/931,611	:	DECISION ON PETITION
Filed: October 31, 2007	:	TO WITHDRAW
Attorney Docket No. 64756.19	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 14, 2011.

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.

A review of the file record indicates that Fariba Sirjani 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.

The correspondence address of record remains the same, all correspondence from the Office will continue to be forwarded to the above-identified address until otherwise properly notified.

Telephone inquires concerning this decision should be directed to undersigned at (571) 272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: FARIBA SIRJANI
925 DELAWARE AVENUE, APT. 9C
BUFFALO NY 14209

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM NY 12110

MAILED

DEC 22 2011

OFFICE OF PETITIONS

In re Application of :
Kieth A. Raniere :
Application No. 11/931720 :
Filing or 371(c) Date: 10/31/2007 :
Attorney Docket Number: :
FIRST.3327-NY : ON PETITION

This is a decision on the "Petition to Withdraw Abandonment Under37 CFR 1.181(a)," filed November 30, 2011.

This Petition is hereby granted.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed March 29, 2011. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on June 30, 2011. A Notice of Abandonment was mailed October 28, 2011.

With the present petition, Applicant has demonstrated non-receipt of the Office Action by a preponderance of the evidence. Applicant also files a Request for Continued Examination and fee, and a submission in the form of an Amendment.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2434 for processing of the RCE and Amendment in the normal course of business.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	11/931,722	AMMANN ET AL.	
	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	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/ 7/29/2011	Total Claims Allowed: 27	
(Legal Instruments Examiner) (Date)	(Primary Examiner) (Date)	O.G. Print Claim(s): 1	O.G. Print Fig.: None

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☒ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
	1	11	31		61		91		121		151		181
	2		32		62		92		122		152		182
	3		33		63		93		123		153		183
	4		34		64		94		124		154		184
	5	12	35		65		95		125		155		185
	6	13	36		66		96		126		156		186
	7	14	37		67		97		127		157		187
	8	16	38		68		98		128		158		188
	9	17	39		69		99		129		159		189
	10	18	40		70		100		130		160		190
	11	19	41		71		101		131		161		191
	12	20	42		72		102		132		162		192
	13	21	43		73		103		133		163		193
	14	22	44		74		104		134		164		194
	15	23	45		75		105		135		165		195
	16	24	46		76		106		136		166		196
	17		47		77		107		137		167		197
	18		48		78		108		138		168		198
	19	25	49		79		109		139		169		199
	20	26	50		80		110		140		170		200
1	21	15	51		81		111		141		171		201
2	22	27	52		82		112		142		172		202
3	23		53		83		113		143		173		203
4	24		54		84		114		144		174		204
5	25		55		85		115		145		175		205
6	26		56		86		116		146		176		206
7	27		57		87		117		147		177		207
8	28		58		88		118		148		178		208
9	29		59		89		119		149		179		209
10	30		60		90		120		150		180		210

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	11/931,722	AMMANN ET AL.	
	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	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)		Total Claims Allowed: 25	
(Legal Instruments Examiner) (Date)	/Frank W Lu/ 11/21/2011 (Primary Examiner) (Date)	O.G. Print Claim(s): 1	O.G. Print Fig.: None

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☒ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
	1	11	31		61		91		121		151		181
	2		32		62		92		122		152		182
	3		33		63		93		123		153		183
	4		34		64		94		124		154		184
	5		35		65		95		125		155		185
	6	12	36		66		96		126		156		186
	7	13	37		67		97		127		157		187
	8	15	38		68		98		128		158		188
	9	16	39		69		99		129		159		189
	10	17	40		70		100		130		160		190
	11	18	41		71		101		131		161		191
	12	19	42		72		102		132		162		192
	13	20	43		73		103		133		163		193
	14	21	44		74		104		134		164		194
	15	22	45		75		105		135		165		195
	16	23	46		76		106		136		166		196
	17		47		77		107		137		167		197
	18		48		78		108		138		168		198
	19		49		79		109		139		169		199
	20	24	50		80		110		140		170		200
1	21	14	51		81		111		141		171		201
2	22	25	52		82		112		142		172		202
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7	27		57		87		117		147		177		207
8	28		58		88		118		148		178		208
9	29		59		89		119		149		179		209
10	30		60		90		120		150		180		210

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	11/931,722	AMMANN ET AL.	
	Examiner	Art Unit	
	FRANK LU	1634	

ISSUE CLASSIFICATION

ORIGINAL						CROSS REFERENCE(S)								
CLASS				SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)								
435				91.2	435	6.1	6.11	6.12	91.1					
INTERNATIONAL CLASSIFICATION					536	23.1	24.3	24.33	25.3					
C	1	2	P	19/34										
C	1	2	Q	1/68										
C	0	7	H	21/02										
C	0	7	H	21/04										
C	0	7	H	21/00										

(Assistant Examiner) (Date)	/Frank W Lu/ 4/9/2012	Total Claims Allowed: 25
(Legal Instruments Examiner) (Date)	(Primary Examiner) (Date)	O.G. Print Claim(s): 1 / O.G. Print Fig.: None

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☒ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
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	18		48		78		108		138		168		198
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9	29		59		89		119		149		179		209
10	30		60		90		120		150		180		210

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	11/931,722	AMMANN ET AL.	
	Examiner	Art Unit	
	FRANK LU	1634	

ISSUE CLASSIFICATION

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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/ 4/12/2012	Total Claims Allowed: 17	
(Legal Instruments Examiner) (Date)	(Primary Examiner) (Date)	O.G. Print Claim(s): 1	O.G. Print Fig.: None

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☒ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
	1		31	8	61		91		121		151		181
	2		32	9	62		92		122		152		182
	3		33	10	63		93		123		153		183
	4		34	11	64		94		124		154		184
	5		35	12	65		95		125		155		185
	6		36	13	66		96		126		156		186
	7		37	14	67		97		127		157		187
	8		38	15	68		98		128		158		188
	9		39	16	69		99		129		159		189
	10		40	17	70		100		130		160		190
	11		41		71		101		131		161		191
	12		42		72		102		132		162		192
	13		43		73		103		133		163		193
	14		44		74		104		134		164		194
	15		45		75		105		135		165		195
	16		46		76		106		136		166		196
	17		47		77		107		137		167		197
	18		48		78		108		138		168		198
	19		49		79		109		139		169		199
	20		50		80		110		140		170		200
	21		51		81		111		141		171		201
	22		52		82		112		142		172		202
	23		53		83		113		143		173		203
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	25	2	55		85		115		145		175		205
	26	3	56		86		116		146		176		206
	27	4	57		87		117		147		177		207
	28	5	58		88		118		148		178		208
	29	6	59		89		119		149		179		209
	30	7	60		90		120		150		180		210

UNITED STATES PATENT AND TRADEMARK OFFICE

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January 31, 2011

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of	:	
Bourgeron, Thomas et,el	:	**DECISION ON PETITION**
Application No. 11/931,784	:	
Filed: 10/31/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 312567USOXCONT	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) March 20, 2009.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/931,784	10/31/2007	Thomas BOURGERON	312567US0XCONT	1634

7590 02/02/2011

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
BALLARD, KIMBERLY	

ART UNIT	PAPER NUMBER
1649	

NOTIFICATION DATE	DELIVERY MODE
02/02/2011	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 31, 2011

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of	:	
Bourgeron, Thomas et,el	:	**DECISION ON PETITION**
Application No. 11/931,784	:	
Filed: 10/31/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 312567USOXCONT	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) March 20, 2009.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BROWDY AND NEIMARK, PLLC
1625 K. STREET, N.W.
SUITE 1100
WASHINGTON DC 20006

MAILED

AUG 29 2011

OFFICE OF PETITIONS

In re application of :
Gil Drori et al :
Application No. 11/931,833 : NOTICE
Filed: October 31, 2007 :
Attorney Docket No. DROR128A :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on July 29, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Simon Joyce, Prafulla Gupta	:	
Manohar Vaidya, Rajesh Alla	:	DECISION
Ashok K. Reddy, Sree Ayyala	:	ON
Richa Gupta, Alok Kaushal	:	PETITION UNDER 37 CFR 1.47(a)
J.S.J. Verma, Prasad Undavalli	:	
Kondal Nallajerla,	:	
Sivaramayya Bonajiri,	:	
Krishna Sistla, Amba Prasad G	:	
Biswajit Ray, Raghuram Govind	:	
Janaki Raju, K. Veerabhadra Rao	:	
S.D.V. Ravi, Ram Kumar M.K.	:	
Surya Velpuri, and	:	
Bhanumurthy Nallagonda	:	
Application No. 11/931,883	:	
Filed: October 31, 2007	:	
Atty Docket No. 1444.1001C4	:	

This is in response to the paper styled "RESPONSE TO DECISION ON PETITION UNDER 37 CFR 1.47(a)" filed February 3, 2010.

Petitioner requests that the executed Declaration filed with this petition be accepted under 37 CFR 1.47(a) on behalf of all inventors or that the Petition to Suspend filed February 24, 2009 be granted to allow more time to obtain executed Declarations from additional inventors.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are

permitted. **Failure to respond will result in abandonment of the application.** Applicants should take care that any renewed petition cures the deficiencies noted herein, and otherwise complies with applicable rules and law.

The application continues to not be in condition for further examination. As previously stated, after a proper reply to this decision, one that resolves the outstanding issues with respect to the declaration, has been filed, the application will be referred to the Technology Center for consideration of both the "PETITION TO SUSPEND EXAMINATION UNDER 37 CFR § 1.103(a) or 1.103(e)" filed February 24, 2009 and the "RESPONSE & PETITION TO SUSPEND EXAMINATION UNDER 37 CFR §1.103(a)" filed March 3, 2009.

BACKGROUND

The prior dismissal stated that applicants must show to the satisfaction of the Office that the declaration as originally filed was in fact signed by all the actual inventors by stating on the record that declaration A was actually signed by each named inventor or applicants must submit a newly executed oath or declaration directed to this application. Further, if applicants are not able to obtain signatures from all of the inventors on such a new oath or declaration, then a grantable petition under 37 CFR 1.47 (including the petition fee) is required for acceptance of the newly executed oath or declaration. Additionally, applicants were reminded that any newly executed oath or declaration submitted to be proper must identify each inventor by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial. Finally, applicants were told that, for administrative convenience, the order of inventorship in any newly executed oath or declaration should remain as it is of record (as shown beginning on page 2 of the prior decision). Finally, correction of the names of the inventors was required by way of the filing of a supplemental Application Data Sheet or 37 CFR 1.182 (and fee), as the correction may require.

OPINION

On instant renewed petition, applicants have submitted 6 declarations for patent, all directed to this application. Applicants state that the order of the inventorship is the same

as that filed in application No. 09/395,868. Each inventor is identified by full name. Applicants state that they have verified names via employment files, current employers, passports, and other sources of what is believed to be the full legal names of the inventors. Statements are submitted from inventors Eanuga, Undavalli, Sathi and Mambakkam, whose names differs from the names on the combined declaration filed in application No. 09/395,868, attesting to their full legal name being as set forth on the currently filed declaration. No petition under 1.182 is filed to correct any of the inventor's name.

The six combined declarations submitted are signed by inventors Joyce, Gupta, Eanuga, Alla, Undavalli (with non-dated and non-initialled changes), Sathi (with initialled changes), and Mambakkam. The signature blocks of the other inventors are left blank, signifying that this declaration is executed by the signing inventor on behalf of themselves and on behalf of the non-signing inventors, pursuant to the provisions of 37 CFR 1.47(a).

What is needed to accept the combined declaration is more than as stated by applicants, "an explanation of why the other inventors have not yet signed a new oath or declaration in response to the August 3, 2009 decision." What is required is satisfaction of the requirements of 37 CFR 1.47(a):

> (1) proof that the non-signing inventor cannot be reached or found, after 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; and (4) a statement of the last known address of the non-signing inventor.

Applicants have not submitted adequate proof of the unavailability of the inventors to join in the application. Stating that efforts to obtain signatures has been hindered by contractual arrangements entered into with many of the inventors is not sufficient to show to the satisfaction of the Director the unavailability of the inventors. Proof of diligent efforts to reach or find inventors should include a statement of facts, where at all possible, from a person with firsthand knowledge fully describing the exact facts which are relied on to

establish that a diligent effort was made and including any documentary evidence, such as copies of internet search results. The statement should contain facts as opposed to conclusions. Likewise, where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts.

Applicants have not submitted adequate proof of refusal by conduct. Applicants state that letters forwarding the declaration were sent to all of the inventors via Federal Express. The petition does not include copies of the letters or proof of receipt of the letters (e.g. a Federal Express delivery confirmation). In addition, applicants do not show that along with the declaration all of the application papers were forwarded to the inventors. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration.

See MPEP 409.03(d) with respect to the requirements to show the unavailability of the non-signing inventors.

Further, the last known address may be deemed to be as set forth on the declaration. The petition should include statements of the last known address of each inventor.

The petition fee is being charged to Deposit Account No. 19-3935, as authorized.

For reasons unclear to the undersigned, applicants request that consideration be given to the Supplemental Declaration signed by inventor Raghuram Govindacharyula in parent application No. 10/684,396. As previously stated, this application does not meet the requirements of 37 CFR 1.63(d)(1) such that a declaration from a parent application may be submitted in lieu of a newly executed oath or declaration. In no case may this option be exercised with respect to 1 of multiple inventors. If such were applicable, the declaration from the prior application must be sufficient with respect to all of the signing inventors.

CONCLUSION

For the reasons stated herein, the petition 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 FAX: (571) 273-8300
Attn: Office of Petitions
ATTN: NANCY JOHNSON

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED

AUG 26 2011

OFFICE OF PETITIONS

In re Application of	:	
Simon Joyce, Prafulla Gupta	:	
Manohar Vaidya, Rajesh Alla	:	DECISION
Ashok K. Reddy, Sree Ayyala	:	ON
Richa Gupta, Alok Kaushal	:	PETITION UNDER 37 CFR 1.47(a)
J.S.J. Verma, Prasad Undavalli	:	
Kondal Nallajerla,	:	
Sivaramayya Bonajiri,	:	
Krishna Sistla, Amba Prasad G	:	
Biswajit Ray, Raghuram Govind	:	
Janaki Raju, K. Veerabhadra Rao	:	
S.D.V. Ravi, Ram Kumar M.K.	:	
Surya Velpuri, and	:	
Bhanumurthy Nallagonda	:	
Application No. 11/931,883	:	
Filed: October 31, 2007	:	
Atty Docket No. 1444.1001C4	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF DECISION ON PETITION UNDER 37 CFR 1.47(a)" filed April 1, 2011, requesting that the executed Declarations submitted previously be accepted on behalf of all inventors.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. **Failure to respond will result in abandonment of the application.** Applicants should take care that any renewed petition cures the deficiencies noted herein, and otherwise complies with applicable rules and law.

It is noted that the application continues to not be in condition for further examination. As previously stated, after a proper reply to this decision, one that resolves the outstanding issues with respect to the declaration, has been filed, the application will be referred to the Technology Center for consideration of both the "PETITION TO SUSPEND EXAMINATION UNDER 37 CFR § 1.103(a) or 1.103(e)" filed February 24, 2009 and the "RESPONSE & PETITION TO SUSPEND EXAMINATION UNDER 37 CFR §1.103(a)" filed March 3, 2009.

BACKGROUND

On prior renewed petition filed February 3, 2010, applicants submitted 6 declarations for patent, all directed to this application; along with another request that consideration be given to the Supplemental Declaration signed by inventor Raghuram Govindacharyula in parent application No. 10/684,396. With respect to the Supplemental Declaration by inventor Govindacharyula, applicants were again advised that it is not acceptable[1].

The six combined declarations submitted were signed by inventors Joyce, Gupta, Eanuga, Alla, Undavalli (with non-dated and non-initialled changes), Sathi (with initialled changes), and Mambakkam on behalf of themselves and on behalf of the other non-signing inventors, pursuant to the provisions of 37 CFR 1.47(a). Applicants state that the order of the inventorship is the same as that filed in application No. 09/395,868. Each inventor is identified by full name. Applicants state that they have verified names via employment files, current employers, passports, and other sources of what is believed to be the full legal names of the inventors. Statements are submitted from inventors Eanuga, Undavalli, Sathi and Mambakkam, whose names differs from the names on the combined declaration filed in application No. 09/395,868, attesting to their full legal name being as set forth on the currently filed declaration. No

[1] As previously stated, this application does not meet the requirements of 37 CFR 1.63(d)(1) such that a declaration from a parent application may be submitted in lieu of a newly executed oath or declaration. In no case may this option be exercised with respect to 1 of multiple inventors. If such were applicable, the declaration from the prior application must be sufficient with respect to all of the signing inventors.

petition under 1.182 is filed to correct any of the inventor's names.

The petition was dismissed as the requirements of 37 CFR 1.47(a)[2] were not met. Applicants did not submit adequate proof of the unavailability of the inventors to join in the application. Applicants did not submit adequate proof of refusal by conduct. Before refusal can be alleged, applicants must establish that the inventors were presented with all of the application papers. Applicants did not establish such. Applicants were further advised that although the address of the inventors may be deemed to be that set forth on the declaration (and this requirement waived), in this instance, the petition should include statements of the last known address of each inventor.

OPINION

On this renewed petition, applicants have submitted statements of facts by patent attorney Richard A. Gollhofer; a copy of an email communication from inventor Kondala Nallajerla; a copy of the protective order; Exhibit A, a chart setting forth the names and addresses of the inventors; and Exhibit B, a one-page chart setting forth delivery dates to inventors. This response is made timely by an accompanying extension of time for response within the fourth month.

Exhibit A is accepted as a statement of the last known addresses of the inventors.

However, applicants still have not shown that the inventors are unavailable to join in the application within the meaning of 37 CFR 1.47(a). Applicants' showing is insufficient with respect to showing that the inventors were presented with all of the application papers (specification, claims and drawings).

Attorney Gollhofer declares that packages containing a copy of the U.S. Patent Application Publication No. 2008-0063161, a

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[2] 37 CFR 1.47(a):

(1) proof that the non-signing inventor cannot be reached or found, after 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; and (4) a statement of the last known address of the non-signing inventor.

combined declaration/power of attorney, and a letter requesting applicants to review the publication and execute the declaration were delivered by FedEx delivery to all of the inventors except inventors Richa GUPTA, Amba Prasad GUDIPATI, Janakirama PENUMATSA and Janakirama Veerabhadra Rao KALLURI. Packages sent to these inventors were returned as undeliverable. See ¶¶2, 3 and 4 of Gollhofer declaration and Exhibit B.
Attorney Gollhofer declares that by e-mail (Exhibit C) inventor Kondal Rao NALLAJERLA on January 19, 2010 refused to execute the declaration. Otherwise, applicants state that no other communication has been received by the inventors listed on Exhibit B. See ¶¶5 and 6 of Gollhofer declaration.

The inadequacy of this showing is that it is directed to showing that the application publication, and not the application papers (specification, drawings and claims) as filed, was presented to the inventors. What is required is a showing that consistent with the averment on the declaration for patent that "I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above" that the inventor was presented with the declaration and the application papers (and refused to sign).

Further, even if the mailings had properly included the application papers, the petition does not include evidence of receipt of the packages (e.g. FedEx tracking information). Absent confirmation of receipt, it may not be inferred that the failure of applicants to respond to the request constitutes a refusal. Applicants simply may have not responded because they did not receive the package.

Moreover, applicants have not shown diligent efforts to reach or find inventors GUPTA, GUDIPATI, PENUMATSA and KALLURI. By declaration of attorney Gollhofer, applicants describe the efforts undertaken to locate all of the inventors. However, applicants state that copies of internet search results are not available. In order to have the necessary proof required under 37 CFR § 1.47 that the inventors cannot be reached after diligent effort, applicants should submit details of the efforts to reach or locate the non-signing inventor in an affidavit or declaration of facts by a person with first hand knowledge of the details and submit documentary evidence such as the results of any E-mail or Internet searches. The petition does not include such documentary evidence.

Thus, it is concluded that the requirements of 37 CFR 1.47(a) have not been met.

It is noted that no petition under 1.182 has been filed to correct any of the inventor's names.

CONCLUSION

For the reasons stated herein, the petition 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 FAX: (571) 273-8300
Attn: Office of Petitions
ATTN: NANCY JOHNSON

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402

MAILED
FEB 08 2011
OFFICE OF PETITIONS

In re Application of :
Bertness :
Application No. 11/931,907 : DECISION
Filed/Deposited: 31 October, 2007 :
Attorney Docket No. C382.12-0223 :

This is a decision on the petition filed on 21 December, 2010, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

NOTE:

Petitioner appears to have ignored the guidance in the Commentary at MPEP §711.03(c)(I) as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

Instead, Petitioner has elected to dump more than 100 pages of materials into the record.

The guidance in the Commentary at MPEP §711.03(c)(I) provides that Petitioner must provide two (2) documents and a set of statements for the required showing.

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).

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. §1.181."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 22 March, 2010, with reply due under a non-extendable deadline on or before 22 June, 2010.

The application went abandoned by operation of law after midnight 22 June, 2010.

The Office mailed the Notice of Abandonment on 12 July, 2010.

On 21 December, 2010, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and averred, *inter alia*, non-receipt of the Office action but failed to follow and satisfy the guidance in the Commentary at MPEP §711.03(c)(I).

Moreover, Petitioner's request for relief pursuant to 37 C.F.R. §1.181 is untimely under the Rule.

Thus, Petitioner has not completed the showing as discussed below in the citation from the Manual of Patent Examining Procedure (MPEP).

Petitioner is directed to the appropriate guidance (MPEP §711.03(c)(I)), and requested to comply with it.

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to non-receipt:

***

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

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).

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[1] *See*: MPEP §711.03(c) (I)(A).

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.

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) (***).

***

If Petitioner is unable to comply with and/or otherwise satisfy these requirements, Petitioner may wish to revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

Out of an abundance of caution, Petitioners always are reminded that:

- the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)); and

- those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support

averments with the appropriate documentation–since all owe to the Office the continuing duty to inquire and disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

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 pursuant to 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner 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.)

---

[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).

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[3]) 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

[3] 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

WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402

MAILED

MAY 3 1 2011

OFFICE OF PETITIONS

In re Application of :
Bertness :
Application No. 11/931,907 : DECISION
Filed/Deposited: 31 October, 2007 :
Attorney Docket No. C382.12-0223 :

This is a decision on the petition filed on 22 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 Notice of Allowance/Allowability and Fees Due mailed on 22 March, 2010, with reply due under a non-extendable deadline on or before 22 June, 2010.

The application went abandoned by operation of law after midnight 22 June, 2010.

The Office mailed the Notice of Abandonment on 12 July, 2010.

On 21 December, 2010, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and averred, *inter alia*, non-receipt of the Office action but failed to follow and satisfy the guidance in the Commentary at MPEP §711.03(c)(I). Moreover, Petitioner's request for relief pursuant to 37 C.F.R. §1.181 was untimely under the Rule. Petitioner had not timely complied with the showing as discussed in the guidance in the Commentary at MPEP §711.03(c)(I). The petition was dismissed on 8 February, 2011.

On 22 February, 2011, Petitioner filed, *inter alia*, a petition with fee pursuant to 37 C.F.R. §1.137(b), a reply in the form of fees due, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[3]))

---

[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 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.

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

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[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IFAY F. CHANG
3 LOUIS DRIVE
KATONAH, NY 10536

MAILED
APR 20 2011
OFFICE OF PETITIONS

In re Application of

Ifay Fay Chang
Application No. 11/931,930
Filed: October 31, 2007
Attorney Docket No. 906-009R3

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 11, 2011, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **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 does not include does not include the proper identifiers within the petition. Further the petition cannot be granted because the petition is unsigned.

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 undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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IFAY F. CHANG
3 LOUIS DRIVE
KATONAH, NY 10536

MAILED

MAY 17 2011

OFFICE OF PETITIONS

In re Application of

Ifay Fay Chang
Application No. 11/931,930
Filed: October 31, 2007
Attorney Docket No. 906-009R3

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed April 25, 2011, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a declaration statement signed by applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

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 3711 for action on the merits commensurate with this decision.

/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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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

MAILED

JUL 12 2011

OFFICE OF PETITIONS

In re Patent No. 7,936,823 :
Issue Date: May 3, 2011 :
Application No. 11/932,110 : DECISION ON PETITION
Filed: October 31, 2007 :
Attorney Docket No. 500.44249CX4 :

This is a decision on the Petition For Suspension Of The Rules And Certificate Of Correction Under 37 CFR 1.323, filed June 1, 2011, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner urges that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner requests, 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:

"Hitach Consumer Electronics Co., Ltd., Tokyo (JP)"

to:

--Hitachi Consumer Electronics Co., Ltd., Tokyo (JP)--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR §1.20(a), 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. 7,936,823.

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
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LEVEL 3 COMMUNICATIONS, LLC
c/o CPA Global
P.O. Box 52050
Minneapolis MN 55402

MAILED
OCT 13 2010
OFFICE OF PETITIONS

In re Application of:
Paul E. Stolorz et al.
Application No. 11/932,162
Filed: October 31, 2007
Attorney Docket No. 0093-US-C1

PETITION DECISION

This is a decision on the petition filed July 9, 2010 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, Paul Stolorz and Aric Hagberg 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 Stolorz and Hagberg 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 Ted Middleton.

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 the Technology Center Art Unit for consideration of the amendment filed August 5, 2010.

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
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/932,162	10/31/2007	2451	2076	0093-US-C1	25	4

CONFIRMATION NO. 2099

CORRECTED FILING RECEIPT

83579
LEVEL 3 COMMUNICATIONS, LLC
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Date Mailed: 10/13/2010

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)

Paul E. Stolorz, Thousand Oaks, CA;
John K. Salmon, Altadena, CA;
Michael S. Warren, Santa Fe, NM;
Jeffrey Koller, Torrance, CA;
Aric Hagberg, Santa Fe, NM;
Maksim Yevmenkin, Thousand Oaks, CA;
Mark Brady, Thousand Oaks, CA;
David Pfitzner, Thousand Oaks, CA;
Ted Middleton, Moorpark, CA;

Assignment For Published Patent Application

Level 3 Communications, LLC, Broomfield, CO

Power of Attorney: The patent practitioners associated with Customer Number 42624

Domestic Priority data as claimed by applicant

This application is a CON of 10/259,497 09/30/2002 PAT 7,822,871 which claims benefit of 60/325,177 09/28/2001

Foreign Applications

If Required, Foreign Filing License Granted: 11/20/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/932,162**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: Yes
Title

DISTRIBUTING REQUESTS ACROSS MULTIPLE CONTENT DELIVERY NETWORKS BASED ON SUBSCRIBER POLICY

Preliminary Class

709

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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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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NOV 04 2010

OFFICE OF PETITIONS

In re Application
Miguelangelo J. Perez-Cruet et al.
Application No. 11/932,175
Filed: October 31, 2007
Attorney Docket No. 23159US03

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705) filed October 14, 2010. Applicant requests that the determination of patent term adjustment be corrected from 281 to 367 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.

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12-01-11

TO SPE OF : ART UNIT 1617

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/932181 Patent No.: 8043628

CofC mailroom date: 11-21-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 571.272.9005
CofC Branch 703-756-1814

Note: _____

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 /Fereydoun Sajjadi/ **Art Unit** 1617

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

MAILED
FEB 02 2011
OFFICE OF PETITIONS

In re Application of :
MALONEY, JAMES D. :
Application No. 11/932,196 : DECISION ON PETITION
Filed: 31 October 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 053485/333099 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed 22 September 2010, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02 requires applicant's asserted age to 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 declaration from applicant James D. Maloney that the applicant is 65 years of age or older, as required under MPEP §708.02. Accordingly, the above-identified application has been accorded "special" status.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-6051), or, if unavailable, the undersigned at 571-272-7099.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center AU 3775 for further action on the filed Response.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

STERNE, KESSLER,
GOLDSTEIN & FOX, P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED

SEP 29 2011

OFFICE OF PETITIONS

In re Patent No. 7,957,752
Issue Date: 7 June, 2011
Application No. 11/932,202
Filed: 31 October, 2007
Attorney Docket No. 2483.098000A/MWR/RDC

ON PETITION

This is a decision on the petition filed 18 August, 2011, to waive the rules pursuant to 37 C.F.R. §1.183 and accept the correction of the assignee on the front page of the above-identified patent pursuant to 37 C.F.R. §1.323 and §3.81(a).

NOTE:

The requirements of the instant matter are set forth in in the Commentary at MPEP §307.

Petitioner are guided to provide the necessary statements and showings, along with the proper fees.

It appears that Petitioner did not submit with the petition documents supporting/evidencing the assignment in question—*i.e.,* the recorded assignment—with a statement of their location.

Petitioner is requested to ensure such necessary material/information accompanies petitions.

The petition is **GRANTED**.

Petitioner requests issuance of a certificate of correction substituting the name of "adidas AG."

As noted above, Petitioner appears not to have submitted documents supporting/evidencing the assignment in question—the recorded assignment—or even a statement of their location.

As a courtesy to Petitioner, the Office has reviewed the records in this matter and notes that an assignment was recorded at Reel/Frame 022970/0213 on 17 July, 2009. That assignment indicates the assignee to be identified therein as **adidas AG.**

The regulations at 37 C.F.R. §3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. (See: the regulations The regulations at 37 C.F.R. §3.81(b) and the guidance in the Commentary at MPEP §307.)

Thereafter the patent issued on 7 June, 2011, as indicated above. (*See*, generally in this regard: MPEP §307.)

Petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application. The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect assignment as set forth above.

Out of an abundance of caution, Petitioners always are reminded that 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.[1]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Accordingly, because the request complies with the provisions of 37 C.F.R. 3.81(b), it is appropriate for a certificate of correction to be processed.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

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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).

Patent No. 7,957,752
Application No. 11/932,202

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED

MAR 29 2011

OFFICE OF PETITIONS

Multimedia Games, Inc.
206 Wild Basin South
Austin, Texas 78701

In re Application of	:	
Clifton E. LIND et al.	:	DECISION GRANTING PETITION
Application No. 11/932,322	:	UNDER 37 CFR 1.137(b)
Filed: 31 October 2007	:	
Atty. Docket No.: mgam-988-1010-C1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed 4 January 2011, to revive the above-identified application ("Application").

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before January 3, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed October 1, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 4, 2011.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a Statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of payment of the Issue and Publication fees, (2) a petition fee of $810.00 (small entity), 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 given a power of attorney or authorization of agent to prosecute the Application. Further, it is not apparent whether the signer of the Petition was in a position to have firsthand knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of the delay. *See,* 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (10 October 1997), 1203 Off.

Gaz. Pat. Office 63, 103 (21 October 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.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-8427).

The application file will be referred to Office of Data Management.

for 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

HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas TX 75219

MAILED

NOV 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Chaitali Sengupta et al.	:	
Application No. 11/929,376	:	DECISION ON PETITION
Filed: October 30, 2007	:	TO WITHDRAW
Attorney Docket No. 38192.9	:	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 6, 2010.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has ownership in this application, then a current Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be provided with a renewed request.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PEACOCK MYERS, P.C.
201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE NM 87102

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Application of :
Arvind Raichur et al. :
Application No. 11/932,386 : DECISION ON PETITION
Filed: October 31, 2007 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **30874-1001-CIP** :

This is a decision on the petition, filed May 25, 2010, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

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 November 03, 2009. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of February 24, 2011 accompanies this decision on petition.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being forward to Technology Center Art Unit 2161 for processing.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **PEACOCK MYERS, P.C.**
P.O. BOX 26927
ALBUQUERQUE NM 87125-6927

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/932,386	10/31/2007	Arvind Raichur	30874-1001-CIP

CONFIRMATION NO. 2393

5179
PEACOCK MYERS, P.C.
201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE, NM 87102

NONPUBLICATION RESCISSION LETTER

Date Mailed: 11/18/2010

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 02/24/2011.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/tdjackson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/932,390	10/31/2007	Robert O. Roskam	ADV12 P-309A	2399

277 7590 02/01/2011

PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS, MI 49501

EXAMINER	
TRAN LIEN, THUY	
ART UNIT	PAPER NUMBER
1789	
MAIL DATE	DELIVERY MODE
02/01/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

02/01/2011

wk

Mailed :

In re Application of	:	DECISION ON
Roskam et al.	:	PETITION
Serial No. 11/932,390	:	
Filed: October 31, 2007	:	

For: **COATED POTATO SUBSTRATES HAVING REDUCED FAT CONTENT**

This is a decision on Applicant's request to withdrawn the restriction requirement made in the Notice of Non-Compliant Amendment of December 8, 2010. Applicants assert that the restriction requirement set forth in the Notice of Non-Compliant Amendment is improper and should be withdrawn and the Examiner should enter the amendment filed on January 10, 2011.

The Examiner issued a non-final office action on March 24, 2010. The Applicants responded on September 24, 2010 cancelling claim 1 and adding new claims 2-21. The Examiner determined that the presented claims were not readable on the elected invention because the methods now claimed are distinct processes from the method originally claimed. The Examiner did not provide reasons for restriction (separate classification, status in the art, or field of search) and the claims overlap in scope with originally presented claim 1 such that they are not mutually exclusive.

DECISION

The petition is **GRANTED**.

The Restriction Requirement is withdrawn and the Examiner is directed to enter the amendment filed on January 10, 2011 and to withdraw the notice of non-compliance. .

/W. GARY JONES/
W. Gary Jones
Director, Technology Center 1700
Chemical and Materials Engineering

Todd A. Van Thomme
PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

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KACVINSKY DAISAK PLLC
C/O CPA Global
P.O. BOX 52050
MINNEAPOLIS MN 55402

MAILED
OCT 18 2010
OFFICE OF PETITIONS

In re Application of :
Sandeep K. Jain et al. :
Application No. 11/932,470 : ON PETITION
Filed: October 31, 2007 :
Attorney Docket No. P20326D/1020P20326D :

This is a decision on the petition filed July 8, 2010 under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of May 19, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Accordingly, the date of abandonment of this application is August 20, 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 (1).

As to item 1, the amendment filed on July 8, 2010, does not *prima facie* place the application in condition for allowance, therefore the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). See attached courtesy copy of the advisory action.

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 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 Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Andrew H. Auran
Kacvinsky Daisak, PLLC, c/o CPA Global
4500 Brooktree Road, Suite 302
Wexford, PA 15090

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 11/932,470	**Applicant(s)** JAIN ET AL.	
	Examiner VanThu Nguyen	**Art Unit** 2824	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 July 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: *"plurality of banks, and refresh start/end values specified for each bank" in independent claims 9, 20, 25, 33*. (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: *9-20,23-25,27-30,33-36*.
   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: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/VanThu Nguyen/
Primary Examiner
Art Unit: 2824

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KACVINSKY DAISAK PLLC
C/O CPA Global
P.O. BOX 52050
MINNEAPOLIS MN 55402

MAILED

MAY 10 2011

OFFICE OF PETITIONS

In re Application of :
Sandeep K. Jain et al. :
Application No. 11/932,470 : DECISION ON PETITION
Filed: October 31, 2007 :
Attorney Docket No. P20326D/1020P20326D :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 9, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to properly reply in a timely manner to the final Office action mailed, May 19, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 20, 2009. A Notice of Abandonment was mailed on February 18, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2824 for appropriate action by the Examiner in the normal course of business on the reply received March 9, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Andrew H. Auran
Kacvinsky Daisak, PLLC, c/o CPA Global
4500 Brooktree Road, Suite 302
Wexford, PA 15090

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120112

DATE : November 22, 2011

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction on Patent No.: 8039589

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/RAM R SHUKLA/
Supervisory Patent Examiner.Art Unit 1644

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MAILED

JAN 31 2012

OFFICE OF PETITIONS

FISH & RICHARDSON P.C. (SV)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 8,039,589
Issued: October 18, 2011
Application No. 11/932,471
Filing or 371(c) Date: October 31, 2007
Dkt. No.: 07039-442002

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT
:
:
:

This is a decision on the application for patent term adjustment under 37 CFR 1.705(d) filed on December 19, 2011 requesting a decrease in patent term adjustment from 309 days to 430 days.

The petition for reconsideration of the patent term adjustment is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 8,039,589 on October 18, 2011. The patent issued with a patent term adjustment of 309 days. The instant application for patent term adjustment was timely filed December 19, 2011.

Patentees dispute the 156 days accorded pursuant to 37 CFR 1.703(b). Patentees assert that the period beginning on November 1, 2010 (the day after the date that is three years after the date on which the application was filed), and ending October 18, 2011 (the date the patent was issued), is 352 days in length. With respect to the request for continued examination filed on April 6, 2011, patentees assert that the Director erred in subtracting from "B Delay" a period of time that was not "consumed by continued examination of the application. Patentees argue that no continued examination took place during the 121 day period from June 20, 2011 (the mailing date of the Notice of Allowance), until October 18, 2011 (the date the patent was issued). Accordingly, patentees assert that the patent is entitled to an additional 121 days of "B Delay."

Patentees' arguments have been considered, but not found persuasive.

35 USC 154(b)(1)(B) states in relevant part:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including — (i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

37 CFR 1.702(b) states in relevant part:

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including: (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b).

37 CFR 1.703(b) states in relevant part:

> The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Thus, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, No. 07-1492, 2008 U.S. Dist. LEXIS 76063 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[1]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

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

[1] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See, BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See, In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See, 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See, 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[2] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued 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

[2] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

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).

Accordingly, in the instant matter, the period of adjustment under § 1.702(b) is 156 days, the period from April 6, 2011, the date that the RCE was filed, to October 18, 2011, the date that the patent issued, being excluded from the period of adjustment under 37 CFR 1.702(b).

In view thereof, no adjustment to the patent term will be made.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED
JUN 27 2011
OFFICE OF PETITIONS

In re Application of
XU, et al
Application No. 11/932,518
Filed: October 31, 2007
Attorney Docket No. 070450

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 26, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before April 19, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed January 19, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 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 payment of the issue fee of $1510 and publication fee of $300; (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

As authorized, the issue and publication fees of $1810 will be charged to Deposit Account No. 17-0026.

The submission of the Request for Continued Examination (RCE) is acknowledged and will be processed by the Technology Center.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

All other telephone inquiries should be directed to the Technology Center at (571) 272-2600.

The application is being referred to Technology Center AU 2611 for processing of the RCE within the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THOMPSON COBURN LLP
ATTN: RICHARD E. HAFERKAMP
ONE U.S. BANK PLAZA
SAINT LOUIS MO 63101

MAILED

JUN 01 2011

OFFICE OF PETITIONS

In re Application of :

Ronald S. Indeck et al. :
Application No. 11/932,596 :
Filed: October 31, 2007 :
Attorney Docket No. 53047-72424 :

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 6, 2011, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by an attorney on behalf of inventor Mark A. Franklin, attesting to his/her age. The above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

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 2162 for action on the merits commensurate with this decision.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
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	11932642
Filing Date	31-Oct-2007
First Named Inventor	Richard Steenblik
Art Unit	2873
Examiner Name	BRANDI THOMAS
Attorney Docket Number	04120P-DIV4-029
Title	MICRO-OPTIC SECURITY AND IMAGE PRESENTATION SYSTEM PRESENTING A SYNTHETICALLY MAGNIFIED IMAGE THAT APPEARS TO LIE ABOVE A GIVEN PLANE

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	/Mary R. Bonzagni/
Name	Mary R. Bonzagni
Registration Number	34779

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : April 21,2011

In re Application of :

Richard Steenblik

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11932642

Filed : 31-Oct-2007

Attorney Docket No : 04120P-DIV4-029

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed April 21,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid 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 2873 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/04/11

TO SPE OF : ART UNIT 3653

SUBJECT : Request for Certificate of Correction for Appl. No.: 11932691 Patent No.: 7861868

CofC mailroom date: 10/27/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: **Please check the Specifications & Claims should these changes be made or not?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

X **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: Changes approved.

3653

SPE **Art Unit**

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.
11/932,765	10/31/2007	Cheree L.B. Stevens	ADV12 P-306B	2866

277 7590 02/01/2011

PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS, MI 49501

EXAMINER	
TRAN LIEN, THUY	
ART UNIT	PAPER NUMBER
1789	

MAIL DATE	DELIVERY MODE
02/01/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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02/21/2011

wk

Mailed :

In re Application of	:	DECISION ON
Roskam et al.	:	PETITION
Serial No. 11/932,765	:	
Filed: October 31, 2007	:	
For: **COATED CEREAL PIECES**		

This is a decision on Applicant's request to withdrawn the restriction requirement made in the Notice of Non-Compliant Amendment of December 27, 2010. Applicants assert that the restriction requirement set forth in the Notice of Non-Compliant Amendment is improper and should be withdrawn and the Examiner should enter the amendment filed on January 27, 2011.

The Examiner issued a Non-Final office action on March 18, 2010. The Applicants responded on July 19, 2010 amending claim 1 and adding new claims 2-20. The Examiner determined that the presented claims were not readable on the elected invention because the food product and coating as now claimed is independent and distinct from the food product and coating originally claimed and that the inventions require different search and are patentably distinct. The Examiner issued a notice of non-compliance. Applicants responded and the Examiner determined that the amendment filed on October 25, 2010 was still non-responsive. The Examiner now determined that the inventions as now claimed are mutually exclusive from the original claim because they require different ingredients and substrate, they are not obvious variants and they have a materially different design, function and effect to the different ingredients.

The Examiner did not provide reasons for restriction (separate classification, status in the art, or field of search) and the claims are not mutually exclusive. Claims are not mutually exclusive if they overlap in scope. Original claim 1, amended claim 1 and newly presented independent claim 8 disclose an overlap in claim scope. Original claim 1 required a cereal piece, which was narrowed to a thermally processed cereal piece in all of the independent claims. Originally present claim 1 required a coating composition which included a starch component while newly amended claim 1 requires a starch component and a dextrin which further defines the makeup of the coating composition as originally claimed.

DECISION

The petition is **GRANTED**.

The Restriction Requirement is withdrawn and the Examiner is directed to enter the amendment filed on January 27, 2011 and to withdraw the notice of non-compliance.

/W. GARY JONES/
W. Gary Jones
Director, Technology Center 1700
Chemical and Materials Engineering

Todd A. Van Thomme
PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

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WILLIAM H. DIPPERT
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U.S. STEEL TOWER
600 GRANT STREET, 44TH FLOOR
PITTSBURGH PA 15219

MAILED

AUG 31 2010

OFFICE OF PETITIONS

In re Application of
Shlomo Ben-Haim et al
Application No. 11/932,881
Filed: October 31,2007
Attorney Docket No. 298859-00023

DECISION ON REQUEST FOR REFUND

This is a decision on the Request For Refund filed August 17, 2010.

The request is **GRANTED**.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on July 12, 2010, with the issue fee being due on or before October 12, 2010.

Applicant files the above request for refund and states that on August 17, 2010, a Request for Continued Examination (RCE) and an, IDS/references were filed in the above application, accompanied by a payment of $130.00 for a petition to withdraw from issue as indicated on the RCE Transmittal. Applicant further states that the petition fee was paid in error because the issue fee had not yet been paid.

In view thereof, the petition fee of $130.00 is being credited to petitioner's credit card account as that is the method in which the fee was paid.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/932,918	10/31/2007	Sabine Deligne	YOR20030518US2 (590.204)	3047

47049 7590 04/12/2011

FERENCE & ASSOCIATES LLC
409 BROAD STREET
PITTSBURGH, PA 15143

EXAMINER	
SHAW, YIN CHEN	
ART UNIT	**PAPER NUMBER**
2439	
MAIL DATE	**DELIVERY MODE**
04/12/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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P.O. Box 1450
Alexandria, VA 22313-1450
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Stanely D Ference III
Ference & Associates LLC
409 Broad Street
Pittsburgh PA 15143

In re Application of:
Deligne et al.
Application No. 11/932918
Filed: October 31, 2007
For: Method and Apparatus for Pervasive Authentication Domains

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed February 09, 2011 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and accept the July 1, 2010 declaration. The addition and deletion of inventors is covered under 37 CFR 1.48(a) and this 1.181 will be treated as a rule 48 petition.

A grantable petition must have:

(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.

A review of the record indicates that the petition includes a proper request and oath, an authorization to charge fees and that no assignment has been executed by the original named inventors. The petition is lacking the statement from each persons involved that the error in inventorship occurred without deceptive intention.

Accordingly, the petition is **DISMISSED.**

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3612. A second point of contact is QAS Kim Huynh who can be reached at (571) 272-4147.

Tod Swann
Workgroup Quality Assurance Specialist

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.
11/932,918	10/31/2007	Sabine Deligne	YOR20030518US2 (590.204)	3047

47049 7590 08/31/2011

FERENCE & ASSOCIATES LLC
409 BROAD STREET
PITTSBURGH, PA 15143

EXAMINER	
SHAW, YIN CHEN	

ART UNIT	PAPER NUMBER
2439	

MAIL DATE	DELIVERY MODE
08/31/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Stanely D Ference III
Ference & Associates LLC
409 Broad Street
Pittsburgh PA 15143

In re Application of:
Giles et al.
Application No. 11/932918
Filed: October 31, 2007
For: Method and Apparatus for Pervasive Authentication Domains

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on a renewed petition to correct inventorship filed on July 7, 2011. A previous petition filed was February 09, 2011 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and accept the July 1, 2010 declaration and was dismissed. The addition and deletion of inventors is covered under 37 CFR 1.48(a).

A grantable petition must have:

(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.

A review of the record indicates that the requirements are met and the Inventorship for this application is now: James R. Giles and Reiner Sailer.

Accordingly, the petition is **Granted.**

The application will be forwarded to Technical Suppport Staff for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3612.

Tod Swann
Workgroup Quality Assurance Specialist
Technology Center 2400

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/16/11

TO SPE OF : ART UNIT 1643

SUBJECT : Request for Certificate of Correction for Appl. No.: 11932944 Patent No.: 7851455

CofC mailroom date: 10/24/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

RoChaun Hardwick
Certificates of Correction Branch
703-756-1580

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments: _____

Misook Yu 1643

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

MAILED

SEP 22 2010

OFFICE OF PETITIONS

CHEVRON CORPORATION
P.O. BOX 6006
SAN RAMON, CA 94583-0806

In re Application of :
Peter Kleijwegt et al :
Application No. 11/932,975 : ON PETITION
Filed: October 31, 2007 :
Attorney Docket No. T-6693 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 28, 2010, 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 June 24, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on September 25, 2009.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1797 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/932,985	10/31/2007	Edmond Godfroid	VANM229.001CP3	3127

20995 7590 09/19/2011

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER	
ROONEY, NORA MAUREEN	
ART UNIT	PAPER NUMBER
1644	

NOTIFICATION DATE	DELIVERY MODE
09/19/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
efiling@kmob.com
eOAPilot@kmob.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SEP 15 2011

In re Application of	:	
Edmond Godfroid, et al	:	NOTICE OF WITHDRAWAL
Serial No. 11/932985	:	FROM ISSUE
Filed: October 31, 2007	:	UNDER 37 CFR 1.313(b)
For: IDENTIFICATION AND MOLECULAR CHARACTERISATION OF PROTEINS EXPRESSED IN THE IXODES RICINUS	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

George C. Elliott

George C. Elliott, Director
Technology Center 1600

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/03/11

TO SPE OF : ART UNIT 1643

SUBJECT : Request for Certificate of Correction for Appl. No.: 11932997 Patent No.: 7855185

CofC mailroom date: 10/24/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: **Should the changes be made in the Sequence Listing?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

Misook Yu — 1643

Misook Yu

SPE — **Art Unit**

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LAW OFFICE OF ROBERT E. KASODY,
PROFESSIONAL CORPORATION
6601 CENTER DRIVE WEST, SUITE #500
LOS ANGELES CA 90045

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Application of :
SCALISI, Joseph F. :
Application No. 11/933,024 : DECISION ON PETITION
Filed: October 31, 2007 : TO WITHDRAW
Attorney Docket No. **LBTECH.008A** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 02, 2010.

The request is **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 Robert E. Kasody on behalf of all attorneys of record who are associated with customer No. 70515. 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 F. Scalisi at the address indicated below.

There is an outstanding Office action mailed April 30, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JOSEPH F. SCALISI**
38 DISCOVERY, SUITE 150
IRVINE, CA 92618

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

Timberline Patent Law Group
157 S. Howard St.
Suite 516
Spokane WA 99203

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Scalisi et al.	:	
Application No. 11/933,024	:	DECISION ON PETITION
Filed: October 31, 2007	:	PURSUANT TO
Attorney Docket No.: LB1-001US	:	37 C.F.R. § 1.137(B)
Title: APPARATUS AND METHOD FOR MANUFACTURING AN ELECTRONIC PACKAGE	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed December 9, 2010, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed April 30, 2010, which set a shortened statutory period to reply of one month. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 31, 2010. A notice of abandonment was mailed on December 3, 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 the petition fee, an election of species, and the proper statement of unintentional delay.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the election of species that was received on December 9, 2010 can be processed in due course.

Petitioner has also submitted a five-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 $ 1,175 extension of time submitted with the petition on December 9, 2010 was filed subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to Petitioner's credit card in due course.

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

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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

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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United States Patent and Trademark Office
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GREENBERG TAURIG, LLP (SV)
IP DOCKETING
2450 COLORADO AVENUE
SUITE 400E
SANTA MONICA, CA 90404

MAILED

DEC 06 2010

OFFICE OF PETITIONS

In re Application of :
Russell A. HOUSER, et al :
Application No. 11/933,129 : DECISION ON PETITION
Filed: October 31, 2007 : TO WITHDRAW
Attorney Docket No. 120636.010809 : 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 4, 2010.

The request is **NOT APPROVED because it is moot.**

A review of the file record indicates that the power of attorney to Cecily Anne O'Regan and all the attorneys of record associated with Customer No. 64494, has been revoked by the assignee of the patent application on October 4, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to undersigned at (571) 272-6735.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

Cc: RUSSELL A. HOUSER
4574 COUNTRY LANE
LIVERMORE, CA 94550

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
11/933,129	10/31/2007	Russell A. Houser	120636.010809

CONFIRMATION NO. 3293

POWER OF ATTORNEY NOTICE

64494
GREENBERG TRAURIG, LLP (SV)
IP DOCKETING
2450 COLORADO AVENUE
SUITE 400E
SANTA MONICA, CA 90404

OC000000044740719

Date Mailed: 12/01/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/04/2010.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Application of
Ifay F. Chang

Application No. 11933207

Filed: October 31,2007

Attorney Docket No. 906-009R1

: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 13-MAR-2011 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SEAGATE TECHNOLOGY LLC
C/O MURABITO HAO & BARNES LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE CA 95113

MAILED

NOV 05 2010

OFFICE OF PETITIONS

In re Application of :
Anthony Joseph Aiello :
Application No. 11/933,212 : ON PETITION
Filed: October 31, 2007 :
Attorney Docket No. SEAGSTL3137C1 :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 16, 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**.

A petition 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.

Along with the instant petition under 37 CFR §§ 1.78(a)(3) and 1.76(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications.

The instant pending nonprovisional application was filed on October 31, 2007, and was pending at the time of filing of the instant petition. While a proper 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 and declaration 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

[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.

claim for priority of the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the $1,410 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Alicia Kelley at (571) 272-6059. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being forwarded to the Examiner of Technology Center AU 3726 for appropriate action on the amendment filed August 16, 2010, including consideration of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) and the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for benefit of the prior-filed applications.

/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

MAR 30 2011

OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of :
BURNETT, Daniel R. :
Application No. 11/933,214 : DECISION ON PETITION
Filed: October 31, 2007 : UNDER 37 CFR 1.78(a)(3)
Docket No. 12637-010-999(324611/010) :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 3, 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 **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 Jose' G Dees at (571) 272-1569.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

MAILED

APR 25 2011

OFFICE OF PETITIONS

In re Application of :
BURNETT, Daniel R. :
Application No. 11/933,214 : DECISION ON PETITION
Filed: October 31, 2007 : UNDER 37 CFR 1.78(a)(3)
Docket No. 12637-010-999 (324611/010) :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed April 8, 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 petitions are **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.

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 Jose' G Dees at (571) 272-1569. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3761 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.

Christopher Bottorff
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/933,214	10/31/2007	3761	625	12637-010-999 (324611/010	25	1

CONFIRMATION NO. 3389

20583
JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

CORRECTED FILING RECEIPT

OC000000047331494

Date Mailed: 04/25/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Daniel R. Burnett, San Francisco, CA;

Assignment For Published Patent Application

NOVASHUNT AG, Steinhausen, SWITZERLAND

Power of Attorney: The patent practitioners associated with Customer Number 20583

Domestic Priority data as claimed by applicant

This application is a CIP of 10/826,237 04/17/2004 PAT 7,909,790
which is a CON of 10/700,863 11/03/2003 PAT 7,311,690
This application 11/933,214
claims benefit of 60/855,247 10/31/2006

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.)

Permission to Access - A proper **Authorization to Permit Access to Application by Participating Offices** (PTO/SB/39 or its equivalent) has been received by the USPTO.

If Required, Foreign Filing License Granted: 11/21/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/933,214**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

IMPLANTABLE FLUID MANAGEMENT DEVICE FOR THE REMOVAL OF EXCESS FLUID

Preliminary Class

604

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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SEP 27 2010

OFFICE OF PETITIONS

LEVINE BAGADE HAN LLP
2400 Geng Road, Suite 120
Palo Alto, CA 94303

In re Application of	:	
Jon Heim	:	
Application No. 11/933,277	:	DECISION ON PETITION
Filed: October 31, 2007	:	TO WITHDRAW
Attorney Docket No. ARMUNA00201	:	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 24, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Levine Bagade Han LLP has been revoked by the assignee of the patent application on September 15, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **BAYER MATERIAL SCIENCE LLC**
100 BAYER ROAD
PITTSBURGH PA 15205

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.
11/933,294	10/31/2007	Robert S. Kieval	3511.503US03C	3479

24113 7590 06/03/2011

PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

EXAMINER	
MALAMUD, DEBORAH LESLIE	
ART UNIT	**PAPER NUMBER**
3766	

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.

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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

In re Application of:
KIEVAL, ROBERT S. et al
Serial No. 11/933,294
Filed: Oct. 31, 2007

Docket No.: 3511.503US03C

METHODS AND APPARATUS FOR PULSED ELECTRICAL FIELD NEUROMODULATION VIA AN INTRA-TO-EXTRAVASCULAR APPROACH

DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition filed on December 1, 2010 by which petitioner requests reconsideration and withdrawal of the restriction requirement mailed December 17, 2009, and that non-elected claims 9, 18-25, 27-32 and 50-52 be rejoined and examined on the merits. Claims 9, 18-25, 27-32 and 50-52 were held to be non-elected and withdrawn from consideration due to non-elected invention. This petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is granted.

After consulting with the examiner, the requested relief is granted. The restriction requirement mailed on December 7, 2009 is hereby withdrawn. Claims 9, 18-25, 27-32 and 50-52 will be rejoined with the elected invention 2-10, 15-17 and 53-57. The examiner will issue an Office action to rejoin and treat the non-elected claims 75-80 on the merits when considering the Rule 116 Amendment of October 4, 2010 in due course.

The application is being forwarded to the examiner via Supervisory Patent Examiner of Art Unit 3731 for further consideration of non-elected claims 9, 18-25, 27-32 and 50-53 and the Rule 116 Amendment prior to further appeal proceeding. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Angela D. Sykes, Director
Technology Center 3700

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4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

MAILED

SEP 2 8 2010

OFFICE OF PETITIONS

In re Application of.	:	
Haines et al.	:	
Application No. 11/933,298	:	NOTICE
Filed: October 31, 2007	:	
Attorney Docket No. 3293.03US14	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent application is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/15/11

TO SPE OF : ART UNIT 3774

SUBJECT : Request for Certificate of Correction for Appl. No.: 11933298 Patent No.: 8062377

CofC mailroom date: 12/09/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted]

Note: Please check Claims 1, 6, 12
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

❑ **Approved**	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: Changes to the claims are approved

/Javier G. Blanco/ Art Unit 3774

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CARR & FERRELL LLP
120 CONSTITUTION DRIVE
MENLO PARK CA 94025

MAILED

OCT 24 2011

OFFICE OF PETITIONS

In re Application of
Michelle Fisher
Application No. 11/933,321
Filed: October 31, 2007
Attorney Docket No. PA5580US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 11, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Myrna M. Schelling on behalf of all attorneys of record who are associated with customer No. 22830. All attorneys/agents associated with the Customer Number 22830 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: MICHELLE FISHER
2930 DOMINGO AVENUE
SUITE 123
BERKELEY, CA 94705

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/933,321	10/31/2007	Michelle Fisher	PA5580US

CONFIRMATION NO. 3510

POWER OF ATTORNEY NOTICE

22830
CARR & FERRELL LLP
120 CONSTITUTION DRIVE
MENLO PARK, CA 94025

OC000000050478276

Date Mailed: 10/19/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/11/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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CARR & FERRELL LLP
120 CONSTITUTION DRIVE
MENLO PARK CA 94025

MAILED

OCT 31 2011

OFFICE OF PETITIONS

In re Application of	:	
FISHER	:	
Application No. 11/933,351	:	DECISION ON PETITION
Filed: October 31, 2007	:	TO WITHDRAW
Attorney Docket No. PA5596US	:	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 11, 2011.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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 Myrna M. Schelling on behalf of the attorneys of record associated with Customer No. 22830.

The attorneys of record associated with Customer No. 22830 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 address indicated below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MICHELLE FISHER
2930 DOMINGO AVE, SUITE 123
BERKELEY, CA 94705

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/933,351	10/31/2007	Michelle FISHER	PA5596US

CONFIRMATION NO. 3543

22830
CARR & FERRELL LLP
120 CONSTITUTION DRIVE
MENLO PARK, CA 94025

POWER OF ATTORNEY NOTICE

OC000000050671280

Date Mailed: 10/28/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/11/2011.

- 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.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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CARR & FERRELL LLP
120 CONSTITUTION DRIVE
MENLO PARK CA 94025

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NOV 08 2011

OFFICE OF PETITIONS

In re Application of	:	
FISHER, et al	:	
Application No. 11/933,367	:	DECISION ON PETITION
Filed: October 31, 2007	:	TO WITHDRAW
Attorney Docket No. PA5597US	:	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 11, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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 Myrna M. Schelling on behalf of the attorneys of record associated with Customer No. 22830.

The attorneys of record associated with Customer No. 22830 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 address indicated below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MICHELLE FISHER
2930 DOMINGO AVE, SUITE 123
BERKELEY, CA 94705

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/933,367	10/31/2007	Michelle FISHER	PA5597US

CONFIRMATION NO. 3561

POWER OF ATTORNEY NOTICE

22830
CARR & FERRELL LLP
120 CONSTITUTION DRIVE
MENLO PARK, CA 94025

OC00000050841202

Date Mailed: 11/07/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/11/2011.

- 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.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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MAY 02 2011

OFFICE OF PETITIONS

WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE, AZ 85251

In re Application of :
Aldo Banova :
Application No. 11/933,423 : ON PETITION
Filed: November 1, 2007 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed March 14, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 28, 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 September 29, 2010.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3635 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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BROUILLETTE & PARTNERS
377 de la Commune West
Montreal QC H2Y 2E2 CA CANADA

MAILED

AUG 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Jean Dobey Ourega	:	
Application No. 11/933,528	:	DECISION ON PETITION
Filed: November 1, 2007	:	TO WITHDRAW
Attorney Docket No. 1601-006-US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 26, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because a proper forwarding address was not provided. The request to change the correspondence address should be that of the: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71, who has properly intervened. If an assignee has intervened in this application then a Statement under 37 CFR 3.73(b), or a copy of the actual assignment/notice of recordation, must be submitted with a renewed request.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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377 de la Commune West
Montreal QC H2Y 2E2 CA CANADA

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AUG 24 2011

OFFICE OF PETITIONS

In re Application of
Jean Dobey Ourega
Application No. 11/933,528
Filed: November 1, 2007
Attorney Docket No. 1601-006-US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 22, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Brouillette on behalf of all attorneys/agents associated with customer number 56535. All attorneys/agents associated with customer number 56535 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: Jean Dobey Ourega
3064 Jacques-Lauzon
Verdun, Quebec H4G 3M8
CANADA

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
11/933,528	11/01/2007	Jean Dobey Ourega	1601-006-US

CONFIRMATION NO. 3821

POWER OF ATTORNEY NOTICE

56535
BROUILLETTE & PARTNERS
377 de la Commune West
Montreal, QC H2Y 2E2
CANADA

Date Mailed: 08/24/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/22/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

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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AUG 29 2011

OFFICE OF PETITIONS

BROUILLETTE & PARTNERS
377 de la Commune West
Montreal QC H2Y 2E2 CA CANADA

In re Application of :
Jean Dobey Ourega :
Application No. 11/933,528 :CORRECTED DECISION ON PETITION
Filed: November 1, 2007 :TO WITHDRAW
Attorney Docket No. 1601-006-US :FROM RECORD
:

This is a corrected decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 22, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because a proper forwarding address was not provided. The request to change the correspondence address should be that of the: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71, who has properly intervened. If an assignee has intervened in this application then a Statement under 37 CFR 3.73(b), or a copy of the actual assignment/notice of recordation, must be submitted with a renewed request.

The file record indicates that an assignment was recorded on March 31, 2010. The address provided on the request is not proper since inventor Jean Dobey Ourega no longer has an interest in this application.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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SEP 27 2011
OFFICE OF PETITIONS

BROUILLETTE & PARTNERS
377 de la Commune West
Montreal QC H2Y 2E2 CA CANADA

In re Application of :
Jean Dobey Ourega :
Application No. 11/933,528 : DECISION ON PETITION
Filed: November 1, 2007 : TO WITHDRAW
Attorney Docket No. 1601-006-US : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 21, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because a proper forwarding address was not provided. The request to change the correspondence address should be that of the: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71, who has properly intervened. If an assignee has intervened in this application then a Statement under 37 CFR 3.73(b), or a copy of the actual assignment/notice of recordation, must be submitted with a renewed request.

As stated in the previous decision mailed August 10, 2011, if an assignee as intervened this case, which appears to be true, a statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with a renewed request.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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377 de la Commune West
Montreal QC H2Y 2E2 CA CANADA

MAILED

OCT 06 2011

OFFICE OF PETITIONS

In re Application of	:	
Jean Dobey Ourega	:	
Application No. 11/933,528	:	DECISION ON PETITION
Filed: November 1, 2007	:	TO WITHDRAW
Attorney Docket No. 1601-006-US	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 3, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Robert Brouillette on behalf of all attorneys/agents of record. All attorneys/agents have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

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: Shopmedia, Inc.
432, rue Sainte-Helene
Montreal, Quebec H2Y 2K7
Canada

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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
11/933,528	11/01/2007	Jean Dobey Ourega	1601-006-US

CONFIRMATION NO. 3821

56535
BROUILLETTE & PARTNERS
377 de la Commune West
Montreal, QC H2Y 2E2
CANADA

POWER OF ATTORNEY NOTICE

OC000000050219528

Date Mailed: 10/05/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/03/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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AUG 10 2011

OFFICE OF PETITIONS

BROUILLETTE & PARTNERS
377 de la Commune West
Montreal QC H2Y 2E2 CA CANADA

In re Application of :
Jean Dobey Ourega :
Application No. 11/933,560 : DECISION ON PETITION
Filed: November 1, 2007 : TO WITHDRAW
Attorney Docket No. 1601-004 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 26, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because a proper forwarding address was not provided. The request to change the correspondence address should be that of the: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71, who has properly intervened. If an assignee has intervened in this application then a Statement under 37 CFR 3.73(b), or a copy of the actual assignment/notice of recordation, must be submitted with a renewed request.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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AUG 29 2011

OFFICE OF PETITIONS

BROUILLETTE & PARTNERS
377 de la Commune West
Montreal QC H2Y 2E2 CA CANADA

In re Application of :
Jean Dobey Ourega :
Application No. 11/933,560 : DECISION ON PETITION
Filed: November 1, 2007 : TO WITHDRAW
Attorney Docket No. 1601-004 : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 22, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because a proper forwarding address was not provided. The request to change the correspondence address should be that of the: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71, who has properly intervened. If an assignee has intervened in this application then a Statement under 37 CFR 3.73(b), or a copy of the actual assignment/notice of recordation, must be submitted with a renewed request.

The file record indicates that an assignment was recorded on March 31, 2010. The address provided on the request is not proper since inventor Jean Dobey Ourega no longer has an interest in this application.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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SEP 27 2011
OFFICE OF PETITIONS

BROUILLETTE & PARTNERS
377 de la Commune West
Montreal QC H2Y 2E2 CA CANADA

In re Application of :
Jean Dobey Ourega :
Application No. 11/933,560 : DECISION ON PETITION
Filed: November 1, 2007 : TO WITHDRAW
Attorney Docket No. 1601-004 : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 21, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because a proper forwarding address was not provided. The request to change the correspondence address should be that of the: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71, who has properly intervened. If an assignee has intervened in this application then a Statement under 37 CFR 3.73(b), or a copy of the actual assignment/notice of recordation, must be submitted with a renewed request.

As stated in the previous decision mailed August 10, 2011, if an assignee as intervened this case, which appears to be true, a statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with a renewed request.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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377 de la Commune West
Montreal QC H2Y 2E2 CA CANADA

MAILED

OCT 06 2011

OFFICE OF PETITIONS

In re Application of	:	
Jean Dobey Ourega	:	
Application No. 11/933,560	:	DECISION ON PETITION
Filed: November 1, 2007	:	TO WITHDRAW
Attorney Docket No. 1601-004	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 4, 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 Robert Brouillette on behalf of all attorneys/agents of record. All attorneys/agents have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

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: Shopmedia, Inc.
432, rue Sainte-Helene
Montreal, Quebec H2Y 2K7
Canada

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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
11/933,560	11/01/2007	Jean Dobey Ourega	1601-004

CONFIRMATION NO. 3875

56535
BROUILLETTE & PARTNERS
377 de la Commune West
Montreal, QC H2Y 2E2
CANADA

POWER OF ATTORNEY NOTICE

OC000000050252566

Date Mailed: 10/06/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/04/2011.

- 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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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/933,706	11/01/2007	Toru TAKAHASHI	740169-54	4171

7590 11/01/2010

Studebaker & Brackett PC
One Fountain Square
11911 Freedom Drive, Suite 750
Reston, VA 20190

EXAMINER
BEST, ZACHARY P

ART UNIT	PAPER NUMBER
1727	

MAIL DATE	DELIVERY MODE
11/01/2010	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 11/01/2010 N FARMER
11/23/2008 INTEFSU 02003365 192380 11933706
02 FC:2111 255.00 CR
04 FC:2202 25.00 CR
05 FC:2203 100.00 CR

FORM PET651G (Rev. 08/07)

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STERNE KESSLER GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

MAILED

JUN 0 1 2011

OFFICE OF PETITIONS

In re Application of :
Lev Ryzhikov et al :
Application No. 11/933,894 : ON PETITION
Filed: November 1, 2007 :
Attorney Docket No. 1857.4890001

This is a decision on the petition, filed May 31, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 12, 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 2882 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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ERICKSON, KERNELL, DERUSSEAU & KLEYPAS, LLC
800 W. 47TH STREET, SUITE 401
KANSAS CITY MO 64112

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JAN 19 2011

OFFICE OF PETITIONS

In re Application of :
Frank D. Julian et al. :
Application No. 11/933,907 : DECISION ON PETITION
Filed: November 1, 2007 :
Attorney Docket No. 100.035 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 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 December 9, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed September 9, 2010. Accordingly, the date of abandonment of this application is December 10, 2010. A Notice of Abandonment was mailed on December 28, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/22/2011

TO SPE OF : ART UNIT 2838

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/933956 Patent No.: 7869171 B2

CofC mailroom date: 9/15/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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: _____

_____

_____

_____

_____

/Monica Lewis/
SPE

2838
Art Unit

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KILPATRICK TOWNSEND & STOCKTON LLP
(NVIDIA)
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
OCT 06 2011
OFFICE OF PETITIONS

In re Application of	:	
LINDHOLM et al.	:	
Application No. 11/933,993	:	DECISION GRANTING PETITION
Filed: 11/01/2007	:	UNDER 37 CFR 1.78(a)(3)
Atty. Docket No. 84833-719622(024310US)	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 25, 2011, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of prior-filed nonprovisional Application No. 11/305,803, filed December 16, 2005, set forth in the concurrently filed Application Data Sheet (ADS).

The petition under 37 CFR 1.78(a)(3) is **GRANTED.**

A petition for acceptance of an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of a prior-filed nonprovisional application pursuant to 37 CFR 1.78(a)(3) is applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the benefit claim under 35 U.S.C. 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

The Office notes that the amendment, filed September 25, 2011, to add the reference to the prior-filed nonprovisional application in the first sentence of the specification following the title is not acceptable as drafted because it improperly incorporates by reference prior-filed Application No. 11/305,803. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim after the filing date of the application, the amendment would not be proper. When a benefit claim is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application.[1] *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *See* MPEP 201.06(c) and 608.04(b). Accordingly, the amendment, filed September 25, 2011, is improper and will not be entered. Applicants should consider filing a new amendment removing the incorporation by reference statement of prior-filed Application No. 11/305,803.

A corrected Filing Receipt, which includes the claim under 35 U.S.C. 120 for the benefit of the prior-filed nonprovisional application, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2628 for consideration by the examiner of applicants' entitlement to claim benefit under 35 U.S.C. 120 to the prior-filed nonprovisional application.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

[1] Applicants may retain the incorporation by reference statement of prior-filed provisional Application No. 60/863,985 because the incorporation by reference statement was present on filing Application No. 11/933,993.

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
11/933,993	11/01/2007	2628	1710	019680-024310US	25	2

CONFIRMATION NO. 4731

CORRECTED FILING RECEIPT

45890
KILPATRICK TOWNSEND & STOCKTON LLP
(NVIDIA)
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 10/06/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

John Erik Lindholm, Saratoga, CA;
John S. Montrym, Los Altos Hills, CA;
Emmett M. Kilgariff, San Jose, CA;
Simon S. Moy, Los Altos, CA;
Sean Jeffrey Treichler, Sunnyvale, CA;
Brett W. Coon, San Jose, CA;
David Kirk, Telluride, CO;
John Danskin, Providence, RI;

Assignment For Published Patent Application

NVIDIA Corporation, Santa Clara, CA

Power of Attorney: The patent practitioners associated with Customer Number 45890

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/863,985 11/02/2006
and is a CIP of 11/305,803 12/16/2005 PAT 7,634,637

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: 11/26/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/933,993**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

HIERARCHICAL PROCESSOR ARRAY

Preliminary Class

345

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/23/11

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 11934049 Patent No.: 7790743

CofC mailroom date: 05/19/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: All corrections provided by Applicants are approved because the errors found were not made by Applicants.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Joseph K. McKane/ SPE

AU 1626

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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NT PATENT LAW
6039 E. GRANT RD.
TUCSON AZ 85712

MAILED
DEC 21 2010
OFFICE OF PETITIONS

In re Application of	:	
Carey HASKINS	:	
Application No. 11/934,082	:	DECISION ON PETITION
Effective Date: November 02, 2007	:	
Attorney Docket No. HASK 10.01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 08, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed May 16, 2008. 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 July 17, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the required items and fees, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of May 16, 2008 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 the Office Patent Application Processing.

Michelle R. Eason
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	11934355
Filing Date	02-Nov-2007
First Named Inventor	Jan Petzel
Art Unit	3636
Examiner Name	LAURIE CRANMER
Attorney Docket Number	013944-9013-01
Title	SEATING ELEMENT AND SEATING 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	/plymouth d. nelson/
Name	Plymouth D. Nelson
Registration Number	48172

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : August 4,2011

In re Application of :

Jan Petzel

Application No : 11934355

Filed : 02-Nov-2007

Attorney Docket No : 013944-9013-01

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed August 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 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
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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

JAN 06 2012

OFFICE OF PETITIONS

In re Application of	:	
Holman et al.	:	DECISION ON
Patent Number: 8,029,554	:	APPLICATION FOR
Issue Date: 10/04/2011	:	PATENT TERM ADJUSTMENT
Application No. 11/934362	:	and
Filing or 371(c) Date: 10/04/2011	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number:	:	CERTIFICATE OF CORRECTION
10527-804001 / 06-01572	:	

This is a corrected decision on the petition filed on filed December 5, 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 426 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 426 days is **GRANTED to the extent indicated herein**.

Patentees aver that the Office errantly failed to assess a reduction in connection with the filing of an Information Disclosure Statement, filed April 6, 2011, and in connection with the filing of an Information Disclosure Statement, filed May 6, 2011.

Patentees also request an additional one hundred forty-two (142) days of patent term adjustment pursuant to 35 U.S.C. 154(b)(1)(B).

Patentees do not dispute reductions of 77 days, or 46 days pursuant to 37 CFR 1.704(b), or an adjustment of 321 days pursuant to 37 CFR 1.702(a)(1).

Regarding the filing of an Information Disclosure Statement ("IDS"), filed April 6, 2011, a review of the application history confirms that Patentees filed a Request for Continued Examination ("RCE") and submission on March 18, 2011, and thereafter filed an IDS on April 6, 2011. A reduction of 19 days, pursuant to 37 CFR 1.704(c)(8), beginning on the day after the date the initial reply was filed, March 19, 2011, and ending on the date the supplemental paper was filed, April 6, 2011, is properly assessed Patentee.

Additionally, regarding the filing of an IDS on May 6, 2011, a review of the application history confirms that after filing the IDS on April 6, 2011, Patentees filed an IDS on May 6, 2011, and a reduction of 30 days, pursuant to 37 CFR 1.704(c)(8), beginning on the day after the date the initial reply was filed, April 7, 2011, and ending on the date the supplemental paper was filed, May 6, 2011, is also properly assessed Patentees.

Regarding the additional one hundred forty-two (142) days of patent term adjustment pursuant to 35 U.S.C. 154(b)(1)(B), Patentees filed, inter alia, a Request for Continued Examination ("RCE"), on March 18, 2011. This Office mailed a Notice of Allowance and Issue Fee Due on May 16, 2011. Patentees request an additional 142 days of patent term adjustment in the period beginning on the date that the Notice of Allowance and Issue Fee Due was mailed, and ending on the date the patent issued, October 4, 2011. Patentees aver that with the mailing of the Notice of Allowance on May 16, 2011, the Office closed examination on the present application on that date, and no continued examination took place in the 142-day period from the mailing date of the Notice of Allowance and Issue Fee Due, to the issuance of the patent. Accordingly, Patentees assert that 142 days of B Delay should have been included in the period of delay accorded the Director, and that the patent term adjustment pursuant to 35 U.S.C. 154(b)(1)(B) should be calculated as 277 days, instead of 135 days.

Counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentees' argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning").

The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[1]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued", meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

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

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[1] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[2] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does

[2] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

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).

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 November 3, 2010, and ends on March 17, 2011, the day before the RCE, filed March 18, 2011, was filed, and is 135 days. See, 35 U.S.C. 154(b)(1)(B)(i).

A further review of the application history confirms that Patentees filed three IDS's after the mailing of a Notice of Allowance on May 16, 2011.

Patentee filed an IDS on July 1, 2011, after the mailing of a Notice of Allowance on May 16, 2011. Pursuant to 37 CFR 1.704(c)(10), a reduction of eight (8) days beginning on the date the IDS was filed, July 1, 2011, and ending on the mailing date of the Office action in response to the IDS, July 8, 2011, is appropriate.

Likewise Patentees filed an IDS on July 15, 2011, after the mailing of a Notice of Allowance on May 16, 2011. Pursuant to 37 CFR 1.704(c)(10), a reduction of seven (7) days, beginning on the date the IDS was filed, July 15, 2011, and ending on the mailing date of the Office action in response to the IDS was mailed, July 21, 2011, is appropriate.

Finally, Patentees filed an IDS on August 15, 2011, 2011, after the mailing of a Notice of Allowance on May 16, 2011. Pursuant to 37 CFR 1.704(c)(10), a reduction of 10 days, beginning on the date the IDS was filed, August 15, 2011, and ending on the mailing date of the Office action in response to the IDS, August 24, 2011, is appropriate.

Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by two hundred fifty-nine **(259)** days (Office adjustments of 456 days (321 days + 135 days) reduced by Applicant delays of 197 days (77 days + 46 days + 19 days + 30 days + 8 days + 7 days 10 days).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,029,554 B2

DATED : **October 4, 2011**

INVENTOR(S) : Holman 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 333 days.

Delete the phrase "by 333 days" and insert – by 259 days--

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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DEC 20 2011

PCT LEGAL ADMINISTRATION

Dickstein Shapiro LLP
1633 Broadway
New York, NY 10019

In re Application of:
NAKANISHI, Motol
U.S. Application No.: 11/934,382
Filing Date: November 02, 2007
Attorney's Docket No.: M1071.2051
For: RADAR

DECISION

This decision is issued in response to applicant's "Request for Corrected Filing Receipt and Notice of Acceptance of Application under 35 U.S.C. 371" filed November 22, 2011 treated herein under 37 CFR 1.181. Applicant requests that the present application be treated as a U.S. National Phase of PCT/JP2006/308201 filed under 35 U.S.C. 371.

BACKGROUND

On April 19, 2011, applicant filed international application PCT/JP2006/308201 which claimed a priority date of May 16, 2005. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., November 16, 2007.

On November 02, 2007, applicant initiated the present application by filing electronically a "Transmittal Letter for National Stage Application Under 35 U.S.C. 371" requesting entry into the U.S. national stage for international application PCT/JP2006/308201. The Transmittal Letter was accompanied by a $1030 fee payment.

During the electronic filing process, applicant identified the present application as a "Utility under 35 USC 111(a)" application, rather than a national stage application filed under 35 U.S.C. 371. Accordingly, the application was processed by the USPTO as a filing under 35 U.S.C. 111(a).

On December 18, 2007, the USPTO issued a filing receipt. The filing receipt listed the following under "Foreign Applications:" Japan JP-2005-143173 dated May 16, 2005, 2007.

On November 22, 2011, applicant filed the "Request for Corrected Filing Receipt and Notice of Acceptance of Application under 35 U.S.C. 371" considered herein. Applicant requests that the present application be treated as a U.S. National Phase of PCT/JP2006/308201 filed under 35 U.S.C. 371.

DISCUSSION

The USPTO has adopted a bright-line test for determining whether application papers will be processed under 35 U.S.C. 371 or alternatively under 35 U.S.C. 111(a). Under this standard, any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted . . . must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371. Otherwise the submission will be considered as being made under 35 U.S.C. 111(a).

In addition, section 1893.03(a) of the MPEP states that:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

The Transmittal Letter Form electronically filed by applicant on November 02, 2007 identified the application as a national stage filing under 35 U.S.C. 371. However, during the electronic filing process, applicant selected the application identifier "Utility under 35 USC 111(a)," rather than the separate application identifier specifically applicable to national stage applications filed under 35 U.S.C. 371. This is evident from the Electronic Acknowledgment Receipt generated at the time of filing, which identifies the application as a "Utility under 35 USC 111(a)" application rather than a U.S. national stage application filed under 35 U.S.C. 371.

Applicant's identification of the application during the electronic filing process as a utility application filed under 35 U.S.C. 111(a) is a conflicting instruction that is not consistent with the intent to file a U.S. national stage application under 35 U.S.C. 371. Accordingly, the present application was properly treated by the USPTO as a filing under 35 U.S.C. 111(a). Applicant's request to have the application treated as a filing under 35 U.S.C. 371 is therefore appropriately dismissed.

It is noted that applicant has not properly claimed benefit of the international application in accordance with 35 U.S.C. 120 and 37 CFR 1.78(a). In order to claim benefit under 35 U.S.C. 120 to the prior-filed PCT application at this point, applicant must file a petition under 37 CFR 1.78(a)(3).

CONCLUSION

The petition to convert the application to a filing under 35 U.S.C. 371 is DISMISSED without prejudice. The present application was properly treated by the USPTO as a filing under 35 U.S.C. 111(a).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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JAN 20 2012

PCT LEGAL ADMINISTRATION

Dickstein Shapiro LLP
1633 Broadway
New York, NY 10019

In re Application of:
NAKANISHI, Motol
U.S. Application No.: 11/934,382
Filing Date: November 02, 2007
Attorney's Docket No.: M1071.2051
For: RADAR

DECISION

This decision is issued in response to applicant's "Request for Reconsideration of Decision and Renewed Request for Issuance of a Corrected Filing Receipt and Notice of Acceptance of Application under 35 U.S.C. 371" filed November 22, 2011 treated herein under 37 CFR 1.181. Applicant requests that the present application be treated as a U.S. National Phase of PCT/JP2006/308201 filed under 35 U.S.C. 371.

BACKGROUND

On April 19, 2011, applicant filed international application PCT/JP2006/308201 which claimed a priority date of May 16, 2005. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., November 16, 2007.

On November 02, 2007, applicant initiated the present application by filing electronically a "Transmittal Letter for National Stage Application Under 35 U.S.C. 371" requesting entry into the U.S. national stage for international application PCT/JP2006/308201. The Transmittal Letter was accompanied by a $1030 fee payment.

During the electronic filing process, applicant identified the present application as a "Utility under 35 USC 111(a)" application, rather than a national stage application filed under 35 U.S.C. 371. Accordingly, the application was processed by the USPTO as a filing under 35 U.S.C. 111(a).

On December 18, 2007, the USPTO issued a filing receipt. The filing receipt listed the following under "Foreign Applications:" Japan JP-2005-143173 dated May 16, 2005, 2007.

On November 22, 2011, applicant filed the "Request for Corrected Filing Receipt and Notice of Acceptance of Application under 35 U.S.C. 371." In a decision dated 20 December 2011, applicant request was dismissed without prejudice.

On 06 January 2012, applicant filed the present renewed "Request for Reconsideration of Decision and Renewed Request for Issuance of a Corrected Filing Receipt and Notice of Acceptance of Application under 35 U.S.C. 371" considered herein. Applicant requests that the present application be treated as a U.S. National Phase of PCT/JP2006/308201 filed under 35 U.S.C. 371.

DISCUSSION

The USPTO has adopted a bright-line test for determining whether application papers will be processed under 35 U.S.C. 371 or alternatively under 35 U.S.C. 111(a). Under this standard, any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted . . . must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371. Otherwise the submission will be considered as being made under 35 U.S.C. 111(a).

In addition, section 1893.03(a) of the MPEP states that:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

The Transmittal Letter Form electronically filed by applicant on November 02, 2007 identified the application as a national stage filing under 35 U.S.C. 371. However, during the electronic filing process, applicant selected the application identifier "Utility under 35 USC 111(a)," rather than the separate application identifier specifically applicable to national stage applications filed under 35 U.S.C. 371. This is evident from the Electronic Acknowledgment Receipt generated at the time of filing, which identifies the application as a "Utility under 35 USC 111(a)" application rather than a U.S. national stage application filed under 35 U.S.C. 371.

Applicant's identification of the application during the electronic filing process as a utility application filed under 35 U.S.C. 111(a) is a conflicting instruction that is not consistent with the intent to file a U.S. national stage application under 35 U.S.C. 371.

Petitioner states that "an indexing mistake in EFS-Web filing has caused the issue surrounding the present application not having been properly treated as a National Stage filing as Applicant intended. The USPTO's documentation regarding EFS-Web filing, however, clearly set forth that indexing mistake 'do not effect the legal filing date,' that any such indexing mistake 'will be corrected by USPTO personnel,' and that the only adverse effect of an indexing mistake is potentially delayed processing." Petitioner reliance on USPTO's EFS-Web Indexing Training material is misguided. Indexing, for EFS-web

purposes, applies to a document description (i.e. PDF/TXT/Zip file) and not to "type of application" submitted by applicant. Therefore, this error is not correctable.[1] Accordingly, applicant's renewed request to have the application treated as a filing under 35 U.S.C. 371 is appropriately dismissed. The present application was properly treated by the USPTO as a filing under 35 U.S.C. 111(a).

It is noted that applicant has not properly claimed benefit of the international application in accordance with 35 U.S.C. 120 and 37 CFR 1.78(a). In order to claim benefit under 35 U.S.C. 120 to the prior-filed PCT application at this point, applicant must file a petition under 37 CFR 1.78(a)(3).

CONCLUSION

The renewed petition to convert the application to a filing under 35 U.S.C. 371 is DISMISSED without prejudice. The present application was properly treated by the USPTO as a filing under 35 U.S.C. 111(a).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298

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[1]USPTO's Legal Framework for EFS-Web (06APR11) states that "[w]hen a user is submitting a new patent application via EFS-Web, the user is required to select the application type (e.g., design, utility, provisional or nonprovisonal) being filed on the EFS-Web screen. Only document descriptions and fee codes pertinent to the selected application type will be available for the submission. The system will also automatically generate the application number based on the user's selection. . . . In the submission process, the assistant who is using the holder's certificates to submit the documents through EFS-Web is required to specify certain "locator information" so the documents can be associated with the proper application file in the IFW system. That locator information may include the application's title, first named inventor, docket number, application number, confirmation number, correspondence address and filing date, all if available. **The type of application (e.g., 35 U.S.C. 111(a), national stage application under 35 U.S.C. 371, international application) and information necessary for the payment of fees are not considered to be locator information.** The "locator information" is entered on submission to assure that the documents are placed in the proper file, and do not constitute a signed submission of bibliographic data on behalf of the applicant or reexamination party. Errors made in the "locator information" may be corrected by the USPTO on its own initiative, or by the applicant or reexamination party, similar to the way they are corrected in paper processing. (http://www.uspto.gov/patents/process/file/efs/guidance/New_legalframe-work.jsp)

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Dickstein Shapiro LLP
1633 Broadway
New York, NY 10019

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FEB 21 2012
PCT LEGAL ADMINISTRATION

In re Application of:
NAKANISHI, Motol
U.S. Application No.: 11/934,382
Filing Date: November 02, 2007
Attorney's Docket No.: M1071.2051
For: RADAR

DECISION

This is a decision on the "Petition for Unintentionally Delayed Claim for Priority under 37 CFR 1.78(a)(3)" filed February 08, 2012, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed international application set forth in the Application Data Sheet (ADS) filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(3) is DISMISSED without prejudice.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. Here, the supplemental application data sheet submitted with the present petition indicates that "this application is a national stage filing of International Application No. PCT/JP2006/308201." The present nonprovisional application is considered a filing under 35 U.S.C. 111. The supplemental application data sheet fails to state the proper relationship of the present application to International Application No.PCT/JP2006/308201 filed April 19, 2006. (See 37 CFR 1.78(a)(2)(i)). Therefore, the supplemental application data fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Applicant is advised that a supplemental application data sheet (ADS) must bear a proper signature as required by 37 CFR 1.33(b). The ADS submitted with the present petition does not bear a proper signature as required by 37 CFR 1.33(b). Form PTO/SB/14 contains an appropriate signature block and can be obtained at http://www.uspto.gov/ebc/portal/efs/sb0014.fill.pdf. Applicant is further advised that a supplemental ADS must be titled in accordance with 37 CFR 1.76(c)(2). Therefore, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters must be filed in the present application.

As to item (3), applicant's statement that "the entire delay in presenting the reference in this application identifying the prior filed application on which the §365 claim for priority is based, between the date the claim was due and the date on which the claim was made was unintentional." is construed as meaning 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." If this is incorrect, petitioner must immediately notify the Office of PCT Legal Administration. As construed, petitioner's statement satisfied item (3) above.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(2)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of

PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

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COWAN LIEBOWITZ & LATMAN P.C.
JOHN J. TORRENTE
1133 AVE. OF THE AMERICAS
NEW YORK NY 10036

MAILED
DEC 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Hiroyoshi Inaba	:	
Application No. 11/934,402	:	DECISION ON PETITION
Filed: November 2, 2007	:	UNDER 37 CFR 1.313(c)
Attorney Docket No. 26103.052	:	

This is a decision on the petition under 37 CFR 1.313(c), filed December 22, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 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 the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2622 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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Date Mailed : 09/01/10

Patent No. : 7765847 B2
Inventor : MICHONSKI, RICHARD D.
Patent Issued : 08/03/10
Docket No. : **50224-00210**

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.

Inspection of the file of the application for the patent reveals that in column 8, line 24 and 27 is printed in accordance with the record (no fee or authorization to charge fee). **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver CO 80237

Lmn

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Schwabe Williamson & Wyatt
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND OR 97204

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of :
Bill Messing et al. :
Application No. 11/934,587 :
Filed: November 2, 2007 :
Attorney Docket No. **114944-156701** :

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 30, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond , pursuant to 37 CFR 10.40.

The request was signed by Alouysius AuYeung on behalf of all attorneys of record who are associated with Customer Number 25943.

All attorneys/agents associated with Customer Number 25943 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and all future correspondence will be directed to the first named inventor Bill Messing at the address indicated below.

There is an outstanding Office action mailed September 23, 2010, that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Bill Messing
3614 East Columbia Street
Seattle, WA 98122

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MAILED
AUG 23 2011
OFFICE OF PETITIONS

Weaver Austin Villeneuve & Sampson - Yahoo!
Attn: Yahoo!
P.O. BOX 70250
OAKLAND CA 94612-0250

In re Application of :
Raffel-Fox, et al. :
Application No. 11/934,594 : ON PETITION
Filed: November 2, 2007 :
Attorney Docket No.: YAH1P092/Y02280US00 :

This is a decision on the "Petition to Accord Filing Date as of Date of Deposit with the US Postal Service under 37 CFR 1.8" filed August 12, 2011.

The petition is **dismissed as moot.**

Petitioner requests that the amendment noted as being filed July 13, 2011, be noted in the Image File Wrapper (IFW) as having been filed July 8, 2011, by virtue of the certificate of mailing under 37 CFR 1.8 dated July 8, 2011, found on the amendment. Section 512 of the Manual of Patent Examining Procedure (MPEP) states, in pertinent part, that:

> When papers are received in a specific location of the Office (e.g., Pre-Grant Publication Division, Office of Data Management Office of Petitions - see MPEP § 502 and § 502.01), the date of receipt in the Office is stamped on the papers in accordance with 37 CFR 1.6(a).
>
> The date indicated on the Certificate of Mailing or of Transmission will be used by the Office only to determine if the paper was deposited in the United States Postal Service transmitted by facsimile or transmitted via EFS-Web within the period for reply. If the paper was actually received in the Office within the period for reply, there is no need to refer to the Certificate. Note however, that 37 CFR 1.6(a)(3) provides that "[c]orrespondence transmitted by facsimile to the Patent and Trademark Office will be stamped with the date on which the complete transmission is received in the Patent and Trademark Office unless that date is a Saturday, Sunday, or Federal holiday within the District of Columbia, in which case the date stamped will be the next succeeding day which is not a Saturday, Sunday, or Federal holiday within the District of Columbia." Note further that 37 CFR 1.6(a)(4) provides that "[c]orrespondence submitted to the Office by way of the Office electronic filing system will be accorded a receipt date, which is the date the correspondence is received at the correspondence address for the Office set forth in § 1.1 when it was officially submitted." This date can be a Saturday, Sunday, or Federal holiday within the District of Columbia.
>
> If, however, the paper was received in the U.S. Patent and Trademark Office after the end of the period for reply, the paper should be inspected to determine if a Certificate of Mailing or of Transmission has been included. Where no such Certificate is found, the paper is untimely since

> applicant did not reply within the period for reply. This may result in abandonment of the application or other loss of rights.
>
> In those instances where a Certificate of Mailing or of Transmission does appear in the paper or a cover letter thereto, a check should be made to determine whether the indicated date of deposit or transmission is within the period for reply. If the date indicated in the Certificate is after the end of the period for reply, the paper is untimely and no notation of the date need be made. Where the date indicated on the Certificate is within the period for reply, the paper should be considered to be timely filed. A notation should be made adjacent to the Office stamp indicating the date of receipt ("Office Date" Stamp) which notes the date stated on the Certificate. This notation should be "C of Mail" "C of Fax or "C of EFS-Web" followed by the date. A paper with a certificate dated November 10, 1997, would be noted next to the "Office Date" Stamp "(C of Mail. 11/10/97)." This notation should also appear on the "Contents" portion of the file wrapper. For Image File Wrapper (IFW) processing, see IFW Manual.

The above-cited section of the MPEP makes clear that the use of certificate of mailing procedures under 37 CFR 1.8 will not result in the receipt or filing date of the paper being noted in the IFW file as of the date the paper was deposited with the United States Postal Service. Rather, use of the certificate of mailing procedures under 37 CFR 1.8 will allow a paper that would otherwise be considered to have been filed outside a set period for reply to be considered a timely. Papers filed using the procedures under 37 CFR 1.10 are noted as having been received as of the date the papers are deposited with the United States Postal Service, Express Mail Service. See MPEP 513. As petitioner used the procedures under 37 CFR 1.8, the amendment is properly noted in the IFW wrapper as having been received on July 13, 2011, but given benefit of certificate of mailing dated July 8, 2011, for determining whether the amendment is a timely response to the non-final Office action mailed March 8, 2011.

As there is no relief that can be given, the petition is dismissed as moot.

The request for an extension of time within the first month charged on July 13, 2011, is being refunded as the amendment filed July 13, 2011, is a timely response to the non-final Office action mailed March 8, 2011, by virtue of the certificate of mailing under 37 CFR 1.8 dated June 8, 2011, found on the amendment.

The application is being directed to the Technology Center 2100, GAU 2172 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/934,597	11/02/2007	Henry Klassen	CHIHO.014C1	6071

20995 7590 01/20/2012

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER	
GAMETT, DANIEL C	

ART UNIT	PAPER NUMBER
1647	

NOTIFICATION DATE	DELIVERY MODE
01/20/2012	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):

jcartee@kmob.com
efiling@kmob.com
eOAPilot@kmob.com

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JAN 1 8 2012

In re Application of	:	
Henry Klassen, et al	:	NOTICE OF WITHDRAWAL
Serial No. 11/934597	:	FROM ISSUE
Filed: November 2, 2007	:	UNDER 37 CFR 1.313(b)
For: ISOLATION OF NEURAL STEM CELLS USING GANGLIOSIDES AND OTHER SURFACE MARKERS	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to a mistake on the part of the Office. See 37 CFR 1.313(b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Jeffrey Stucker, SPE 1647 at (571) 272-0911.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

George C. Elliott

George C. Elliott, Director
Technology Center 1600

KNOBBE MARTENS OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

cc: Publications, Scanning

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 3,2011

In re Application of :

James Foskett

Application No : 11934607

Filed : 02-Nov-2007

Attorney Docket No : 2052187-5004US

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 3,2011

The request is **APPROVED.**

The request was signed by Charles J. Gross (registration no. 52972) on behalf of all attorneys/agents associated with Customer Number 23345 . All attorneys/agents associated with Cusotmer Number 23345 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name	Dr. James J. FOSKETT
Name2	Convergent Aerospace Science & Technology Corp
Address 1	5151 Orth Road
Address 2	HNGR MB4
City	Poplar Grove
State	IL
Postal Code	61105
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	11934607
Filing Date	02-Nov-2007
First Named Inventor	James Foskett
Art Unit	2626
Examiner Name	ABUL AZAD
Attorney Docket Number	2052187-5004US
Title	AVIATION TEXT AND VOICE COMMUNICATION SYSTEM

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 23345

The reason(s) for this request are those described in 37 CFR:

10.40(c)(1)(iv)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Dr. James J. FOSKETT Convergent Aerospace Science & Technology Corp
Address	5151 Orth Road HNGR MB4
City	Poplar Grove
State	IL
Postal Code	61105
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Charles J. Gross/
Name	Charles J. Gross
Registration Number	52972

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MCGUIREWOODS, LLP
1750 TYSONS BLVD
SUITE 1800
MCLEAN VA 22102

MAILED

NOV 02 2011

OFFICE OF PETITIONS

In re Application of :
James J. Foskett :
Application No. 11/934,607 : DECISION ON PETITION
Filed: November 2, 2007 : TO WITHDRAW
Attorney Docket No. 2052187-5004US : 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 29, 2011.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to McGuire Woods, LLP has been revoked by the assignee of the patent application on October 11, 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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COOLEY LLP
ATTN: PATENT GROUP
SUITE 1100
777 – 6TH STREET, NW
WASHINGTON DC 20001

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Application of :
Brian CHESS, et al :
Application No. 11/934,717 : DECISION ON PETITION
Filed: November 2, 2007 : TO WITHDRAW
Attorney Docket No. FOSO-011/00US 304358-2025 : 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 6, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because the attorneys of record were appointed through use of Customer Number 58249, as indicated. Any future request should include the customer number by which the attorneys were initially appointed.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: FORTIFY SOFTWARE, INC.
2300 GENG ROAD, SUITE 102
PALO ALTO, CA 94303

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WILLIAM S. GALLIANI
777 SIXTH STREET N.W., SUITE 1100
WASHINGTON DC 20001

MAILED

MAY 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Brian CHESS, et al	:	
Application No. 11/934,717	:	DECISION ON PETITION
Filed: November 2, 2007	:	TO WITHDRAW
Attorney Docket No. FOSO-011/011US 304358-2025	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 21, 2011.

The request is **NOT APPROVED because it is moot.**

A review of the file record indicates that the power of attorney to William s. Galliani and the attorneys associated with Customer No. 23419, has been revoked by the assignee of the patent application on April 20, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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: FORTIFY SOFTWARD, INC.
2300 GENG ROAD SUITE 102
PALO ALTO CA 94303

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
11/934,717	11/02/2007	Brian CHESS	FOSO-011/00US 304358-2025

CONFIRMATION NO. 6357

58249
COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

POWER OF ATTORNEY NOTICE

Date Mailed: 05/03/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/20/2011.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/dcgoodwyn/

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
11/934,717	11/02/2007	Brian CHESS	FOSO-011/00US 304358-2025

CONFIRMATION NO. 6357

22879
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

POA ACCEPTANCE LETTER

Date Mailed: 05/03/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/20/2011.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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COOLEY LLP
Attn: Patent Group
Suite 1100
777-6th Street, NW
Washington, DC 20001

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JAN 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Brian Chess, et al.	:	
Application No. 11/934,722	:	DECISION ON PETITION
Filed: November 2, 2007	:	TO WITHDRAW
Attorney Docket No. FOSO-012/00US 304358-2026	:	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 6, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 William S. Galliani 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 assignee at the address indicated below.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **FORTIFY SOFTWARE, INC.**
2300 Geng Road, Suite 102
Palo Alto, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/934,722	11/02/2007	Brian Chess	FOSO-012/00US 304358-2026

CONFIRMATION NO. 6366

POWER OF ATTORNEY NOTICE

23419
COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
Washington, DC 20001

Date Mailed: 01/10/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/06/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Alexandria, VA 22313-1450
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FRANK S. DIGIGLIO, ESQ.
SCULLY, SCOTT, MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of
Richard James Lewis, et al.
Application No. 11/934,723
Filed: November 2, 2007
Attorney Docket No. 14438ZY

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 16, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 30, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 1656 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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PLUMSEA LAW GROUP, LLC
10411 MOTOR CITY DRIVE
SUITE 320
BETHESDA MD 20817

MAILED
AUG 24 2011
OFFICE OF PETITIONS

In re Application of
Bhatnagar et al.
Application No. 11/934,737
Filed: November 2, 2007
Attorney Docket No. 39-1023

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 25, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application as set forth in the Application Data Sheet (ADS) and the Amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed

nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A reference to add the prior-filed application on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. Application No. 11/117,704 was not referenced in the first sentence of the specification upon filing, however the amendment submitted with the instant petition references Application No. 11/117,704. Therefore, the incorporation by reference sentence included in the amendment is not proper for Application No. 11/117,704. However, the Office will accept the priority claim as shown in the application data sheet (ADS), filed July 25, 2011.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751.

This matter is being referred to Technology Center Art Unit 3775 for appropriate action on the Amendment and ADS filed July 25, 2011, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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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
11/934,737	11/02/2007	3775	810	39-1023	24	5

CONFIRMATION NO. 6398

CORRECTED FILING RECEIPT

36163
PLUMSEA LAW GROUP, LLC
10411 MOTOR CITY DRIVE
SUITE 320
BETHESDA, MD 20817

Date Mailed: 08/22/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Mohit K. Bhatnagar, Potomac, MD;
Jack Y. Yeh, North Potomac, MD;
James A. Sack, Elverson, PA;

Assignment For Published Patent Application

JMEA Corporation, Rockville, MD

Power of Attorney: The patent practitioners associated with Customer Number 36163

Domestic Priority data as claimed by applicant

This application is a CIP of 11/117,704 04/29/2005 PAT 7,632,313

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: 11/28/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/934,737**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Implantation System for Tissue Repair

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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OFFICE OF PETITIONS

In re Application of :
Flinn et al. :
Application No. 11/934,750 : ON PETITION
Filed: November 3, 2007 :
Attorney Docket No. MW-20A :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 7, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 26, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 27, 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 a continuing application under 37 CFR 1.53(b); (2) the petition fee of $930.00; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 13/027,042, filed February 14, 2011.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

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