PTO/SB/131 (01-10)
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REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: RIED3012/FJD	Patent Number: 7658116
Filing Date (or 371(b) or (f) Date): 2007-12-20	Issue Date: 2010-02-09
First Named Inventor: Alfred Rieder	
Title: MEASURING TRANSDUCER OF THE VIBRATION-TYPE WITH TWO CANTILEVERS	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

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

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

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

Signature /ThomasJMoore/	Date 2010-08-05
Name (Print/Typed) Thomas J. Moore	Registration Number 28974

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

☐ *Total of _____ forms are submitted.

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

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

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

(Not to be Submitted to the USPTO)

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

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

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

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

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

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

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

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

Privacy Act Statement

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

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

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

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 08/17/2010

Applicant	: Alfred Rieder	: DECISION ON REQUEST FOR
Patent Number	: 7658116	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 12/003,105	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/20/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **27** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of	:	
Yo-Sep Min et al	:	
Application No. 12/003,134	:	DECISION GRANTING PETITION
Filed: December 20, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2557-000760/US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 7, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 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) 272-3208.

This application is being referred to Technology Center AU 2879 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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O.BOX 8910
RESTON VA 20195

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JAN 19 2011

OFFICE OF PETITIONS

In re Application of	:	
Diana Martin, et al.	:	
Application No. 12/003,138	:	DECISION GRANTING PETITION
Filed: December 20, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 32860-001371/US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, January 19, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 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 2831 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/003,140	12/20/2007	Jong-Soo Lee	8947-000185/US/CPA	8801

30594 7590 10/28/2010
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
NGUYEN, VIET Q

ART UNIT	PAPER NUMBER
2827	

MAIL DATE	DELIVERY MODE
10/28/2010	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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P.O. BOX 8910
RESTON VA 20195

In re Application of Jong-Soo Lee et al.
Appl. No.: 12/003,140
Filed: December 20, 2007
Attorney's Docket No.: 8947-000185/US/CPA
For: METHOD OF MANAGING A FLASH MEMORY AND THE FLASH MEMORY

DECISION ON PETITION UNDER 37 C.F.R. § 1.59

This is a decision on the renewed petition under 37 C.F.R. §1.59(b), filed August 26, 2010, to expunge information unintentionally submitted on November 16, 2009.

The petition is DENIED.

Petitioner requests that the Information Disclosure Statement (IDS), filed November 16, 2009, be expunged from the record because it was inadvertently filed in the instant application instead of another application. The renewed petition indicates that the failure to remove the IDS from the file record would cause irreparable harm because the file record would indicate that the documents submitted in the above-identified application was not cited in its parent application No. 11/605,977. Petitioner states that the erroneous form PTO-1449 accompanying the IDS has not been made public and makes a commitment to retain the PTO-1449 form for a period of any patent with regard to which the IDS is submitted.

Pursuant to M.P.E.P. § 724.05. III., "37 CFR 1.59(b) also covers the situation where an unintended heading has been placed on papers so that they are present in an incorrect application file. In such a situation, a petition should request that the papers be expunged ..... The grant of such a petition will be governed by the factors enumerated in paragraph II of this section in regard to the unintentional submission of information..."

Pursuant to M.P.E.P. § 724.05.II., information unintentionally submitted may be expunged from the file record provided that: (A) the Office can effect such return prior to the issuance of any patent on the application in issue; (B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted; (C) the information has not otherwise been made public; (D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted; (E) it is established to the satisfaction of the Director that the information

to be returned is not material information under 37 CFR 1.56; and (F) the petition fee as set forth in 37 CFR 1.17(g) is included.

The petition satisfies all the conditions noted above for a grantable petition to expunge information unintentionally submitted in the application under M.P.E.P. § 724.05. III, except condition (C). While the form PTO-1449 may not have been made public, the information submitted with the IDS and the documents listed on form PTO-1449 are all public information.

It is noted that while there will be a difference between the documents cited in the above-identified application and its parent application, the reason for this inconsistency is clear from the file record especially in view of the reasons stated in the renewed petition.

For the above-stated reasons, the petition to expunge continues to be denied. The information submitted with the IDS on November 16, 2009 will remain in the file record.

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

Edward Lefkowitz, Acting TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 09/14/2010

Applicant	: Alfred Rieder	: DECISION ON REQUEST FOR
Patent Number	: 7654152	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 12/003,265	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/21/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **20** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OLDS & LOWE, PLLC
4000 LEGATO ROAD
SUITE 310
FAIRFAX VA 22033

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OFFICE OF PETITIONS

In re Application of	:	
Chang	:	
Application No. 12/003,633	:	DECISION
Filed/Deposited: 28 December, 2007	:	
Attorney Docket No. 5335-0117PUS1	:	

This is a decision on the petition filed on 25 February, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

NOTE:

The record (including the petition filed on 25 February, 2011) does not necessitate a finding that the delay between midnight 1 June, 2010 (the date of abandonment), and 25 February, 2011 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner Joe McKinney Muncy (Reg. No. 32,334) when accepting Petitioner's representation that the delay in filing the response was unintentional.[1]

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

Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[2] *In the event that such an inquiry has not been made, Petitioner* ***must*** *make such an inquiry.*

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[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18(b), formerly §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

[2] See 37 C.F.R. §11.18(b), formerly §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).

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

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

As to the Allegations
of Unintentional Delay

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

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the final Office action mailed on 1 March, 2010, with reply due absent extension of time on or before 1 June, 2008.

On 24 March, 2010, Applicant—having revoked the power of attorney to former Counsel—filed an amendment after final, which the Examiner refused to enter and Applicant—as one before the Office—knew was not as of right and not a proper reply[3] if it did not *prima facie* place the application in condition for allowance, and on 26 April, 2010, the Examiner mailed an Advisory Action. On 3 May, 2010, Applicant filed a second amendment after final, which the Examiner refused to enter, and on 25 May, 2010, the Examiner mailed an Advisory Action. On 27 May, 2010, Applicant filed a third amendment after final, which the Examiner refused to enter, and on 15 November, 2010, the Examiner mailed an Advisory Action. Throughout this period, it does not appear that Applicant filed a request and fee for extension of time

The application went abandoned by operation of law after midnight 1 June, 2010.

The Office mailed the Notice of Abandonment 1 December, 2010.

[3] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

On 3 February, 2011, Petitioner filed a revocation/power of attorney.

On 25 February, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, with a statement of unintentional delay and a reply in the form of a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment.

As previously noted, the record (including the petition filed on 25 February, 2011) does not necessitate a finding that the delay between midnight 1 June, 2010 (the date of abandonment), and 25 February, 2011 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner Joe McKinney Muncy (Reg. No. 32,334) when accepting Petitioner's representation that the delay in filing the response was unintentional.[4]

Moreover, 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.[5] *In the event that such an inquiry has not been made, Petitioner* ***must*** *make such an inquiry.*

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

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[6]

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[4] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18(b), formerly §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

[5] See 37 C.F.R. §11.18(b), formerly §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).

[6] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[7]
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.[8]))

As to Allegations of Unintentional Delay

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

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

CONCLUSION

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

The instant application is released to the Technology Center/AU 2121 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

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and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[7] 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.

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) 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

[9] 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

Mr. Joe Mckinney Muncy
Muncy, Geissler, Olds & Lowe, PLLC
4000 Legato Road
Suite 310
Fairfax, Virginia 22033

MAILED
JAN 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Li-Wen JEN	:	DECISION GRANTING PETITION
Application No. 12/003,661	:	UNDER 37 CFR 1.137(b)
Filed: 28 December 2007	:	
Atty. Docket No. BHT-3226-123	:	

This is a decision on the petition under 37 CFR 1.137(b), filed 14 May 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to Notice to File Missing Parts of Nonprovisional Application mailed 30 January 2008 ("Notice"), which set a reply period of two (2) months. No reply was sent, and no extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application thus became abandoned on 31 March 2008, with subsequent notification mailed 7 October 2008.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the outstanding Office action, (2) a petition fee of $810.00, and (3) a Statement of unintentional delay. The reply to the outstanding Office action is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been properly submitted, although the address given on the petition differs from the address of record. A change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence only to the address of record.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-6051), or, if unavailable, the undersigned at 571-272-7099.

The application file will be referred to the Office of Patent Application Processing for further action.

David Bucci
Petitions Examiner
Office of Petitions

cc: Mr. Joe McKinney Muncy
P.O. Box 1364
Fairfax, Virginia 22038

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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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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE – SUITE 101
ELLICOTT CITY MD 21043

MAILED

AUG 19 2011

OFFICE OF PETITIONS

In re Application of	:	
LIAO	:	
Application No. 12/003,687	:	ON PETITION
Filed: December 31, 2007	:	
Attorney Docket No. MR957-2005	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 29, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 13/176,246, filed July 5, 2011.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : June 24,2011

In re Application of :

Jun Koyama

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 12003698

Filed : 31-Dec-2007

Attorney Docket No : 0756-8210

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed June 24,2011 , 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 2629 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	12003698
Filing Date	31-Dec-2007
First Named Inventor	Jun Koyama
Art Unit	2629
Examiner Name	SRILAKSHMI KUMAR
Attorney Docket Number	0756-8210
Title	DRIVING CIRCUIT OF A SEMICONDUCTOR DISPLAY DEVICE AND THE SEMICONDUCTOR DISPLAY DEVICE

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

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

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

Petition Fee

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

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

☐ Applicant(s) status remains as SMALL ENTITY.

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

Reason for withdrawal from issue

○ One or more claims are unpatentable

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

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

RCE request,submission, and fee.

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

☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole inventor

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

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

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

Signature	/Eric J. Robinson/
Name	Eric J. Robinson
Registration Number	38285

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED
OCT 04 2011
OFFICE OF PETITIONS

In re Application of	:	
Jeong Hwan Ahn et al	:	
Application No. 12/003,771	:	DECISION ON PETITION
Filed: December 31, 2007	:	UNDER 37 CFR 1.313(c)
Attorney Docket No. 1901.1227	:	

This is a decision on the petition under 37 CFR 1.313(c), filed September 30, 2011 and resubmitted on October 3, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 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) 272-3208.

This application is being referred to Technology Center AU 2628 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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

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MAY 27 2011
OFFICE OF PETITIONS

In re Application of	:	
Mao-Huai WENG et al.	:	
Application No. 12/003,780	:	ON PETITION
Filed: December 31, 2007	:	
Attorney Docket No. JAD 153	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed February 1, 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 April 2, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees; (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of February 1, 2008 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 Andre Boyce at (571) 272-6726, or in his absence, the undersigned at (571) 272-7099.

The application is being referred to the Office of Patent Application Processing.

for David A. Bucci
Petitions Examiner
Office of Petitions

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Muncy, Geissler, Olds & Lowe, PLLC
4000 Legato Road
Suite 310
FAIRFAX VA 22033

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NOV 19 2010
OFFICE OF PETITIONS

In re Application of :
Chao-Hsiung Cho :
Application No. 12/003,789 : DECISION ON PETITION
Filed: December 31, 2007 :
Attorney Docket No. 5545/0249PUS1 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application (Notice), mailed January 30, 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) was obtained. Accordingly, the application became abandoned on March 31, 2008. A Notice of Abandonment was mailed October 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an examination fee of $110, a search fee of $270, a basic filing fee of $165, and a surcharge fee of $65 (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the fees are accepted as being unintentionally delayed.

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

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

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

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received October 20, 2010. Inquires regarding the status of the application should be directed to 571-272-4000.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Joe McKinney Muncy
P.O. Box 1364
Fairfax, VA 22038-1364

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

MUNCY, GEISSLER, OLDS & LOWE, PLLC
4000 LEGATO ROAD
SUITE 310
FAIRFAX VA 22033

In re Application of	:	
Isao Okamoto	:	
Application No. 12/003,791	:	DECISION ON PETITION
Filed: December 31, 2007	:	
Attorney Docket No. 5545/0347PUS1	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed February 1, 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 above-identified application became abandoned on April 2, 2008. A Notice of Abandonment was mailed on October 10, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the $65.00 Surcharge fee, the $165.00 Basic filing fee, the $270.00 Search fee, and the $110.00 Examination fee; (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Further, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Further, the address given on the petition differs from the new address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision on petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Joe McKinney Muncy
PO Box 1364
Fairfax, VA 22038-1364

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 12 2011

OFFICE OF PETITIONS

Jason Aderink
9296, 185th Avenue, NE
Oak Park MN 56357

In re Application of :
Jason ALDERINK : ON PETITION
Application No. 12/003,796 :
Filed: January 2, 2008 :

This is in response to the petition filed May 27, 2011, which is being treated under 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 mailing date of this decision. Extensions of time under 37 CFR 1.136 are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)". This is not a final agency action within the meaning of 5 U.S.C. §704.

The application became abandoned for failure to reply to the non-final Office action mailed August 30, 2010, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned December 1, 2010. A Notice of Abandonment was mailed March 29, 2011.

A grantable petition under 37 CFR1.137(b) must be accompanied by: (1) an appropriate reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay for 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 CFR1.137(d). The petition lacks items (1) and (2).

Regarding item (1), whereas petitioner has asserted that a reply to the non-final Office action mailed August 30, 2010 will be forthcoming, a reply is required to be filed with the instant petition.

Regarding item (2), applicant has failed to include the petition fee of $1620 ($810 for small entity) with the instant petition.

Based on the above reasoning, the instant petition is not grantable.

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

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 8:30AM to 5:30PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experience 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, Virginia 22313-1450

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

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

Telephone inquiries related to this decision may be directed to Robert DeWitty at (571) 272-8427.

Ramesh Krishnamurthy

for Anthony Knight
Director
Office of Petitions

Attachment: Form PTO/SB/64

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P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 15 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,736,472	:	
Issue Date: June 15, 2010	:	
Application No. 12/003,836	:	DECISION ON PETITION
Filed: January 2, 2008	:	
Attorney Docket No. 1312-0345PUS2	:	

This is a decision on the Request For Certificate Of Correction Pursuant To 35 U.S.C. 255 And 35 C.F.R. 1.323, filed August 19, 2010, requesting correction on the Title Page of the subject patent to delete the indicated assignee's name on the Title Page. 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 states that incorrect assignee information was mistakenly entered on the previously submitted PTOL 85B. Accordingly,, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to delete the erroneously identified assignee name on 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 reflect that there is no assignee of record. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 submitted with the Petition.

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

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,736,472.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON DC 20005

MAILED
MAY 27 2011
OFFICE OF PETITIONS

In re Application of	:	
Mao-Huai WENG et al.	:	
Application No. 12/003,854	:	ON PETITION
Filed: January 2, 2008	:	
Attorney Docket No. JAD 154	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed January 30, 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 March 31, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees; (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of January 30, 2008 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 Andre Boyce at (571) 272-6726, or in his absence, the undersigned at (571) 272-7099.

The application is being referred to the Office of Patent Application Processing.

for David A. Bucci
Petitions Examiner
Office of Petitions

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Muncy, Geissler, Olds & Lowe, PLLC
4000 Legato Road
Suite 310
FAIRFAX VA 22033

MAILED
SEP 23 2010
OFFICE OF PETITIONS

In re Application of :
Shun-Yu Wang :
Application No. 12/003,855 : DECISION ON PETITION
Filed: January 2, 2008 :
Attorney Docket No. 5545/0435PUS1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application (Notice), mailed January 30, 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) was obtained. Accordingly, the application became abandoned on May 1, 2008. A Notice of Abandonment was mailed October 30, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an examination fee of $110, a search fee of $270, a basic filing fee of $165, and a surcharge fee of $65 (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the fees are accepted as being unintentionally delayed.

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

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

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

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received July 26, 2010. Inquires regarding the status of the application should be directed to 571-272-4000.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Joe McKinney Muncy
P.O. Box 1364
Fairfax, VA 22038-1364

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Yen Jung Sung
30-47 37 St.
Astoria NY 11103

MAILED

DEC 07 2010

OFFICE OF PETITIONS

In re Application of
Lu
Application No. 12/003,955
Filed: January 3, 2008
Attorney Docket No. Asia-059-US3624

DECISION ON PETITION

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed September 14, 2010, to revive the above-identified application.

The petition is **DISMISSED.**

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

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts (Notice), which was mailed on January 29, 2008. The Notice set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on March 30, 2008. Notice of Abandonment was mailed October 9, 2008.

Petitioner attributes the delay in timely responding to the Notice to the misrepresentations and omissions by prior counsel Bruce Troxell. Petitioner states Mr. Troxell caused applicant's local agents in Taiwan to believe the application was pending, when in fact the filing fees which had been paid in advance had been misappropriated by attorney Troxell.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item(s) (3).

As to item (1), the petition fails to satisfy the reply requirement. In this regard, petitioner has submitted a fee in the amount of $260.00 whereas the Office of Finance advises the undersigned

that the required fee is now $270.00. Any request for reconsideration must satisfy the reply requirement set forth above.

As to item (3), petitioner has failed to establish that the entire delay, from the time that a reply to the Notice was due until the filing of a grantable petition, has been unavoidably delay.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

In general, the Office looks to the actions or inactions of duly authorized and voluntarily chosen representatives of an applicant. Further, applicant is bound by the consequences of those actions or inactions. See, Link v. Wabash, 370 U.S. 626, 633-34 (1962).

Petitioner herein asserts that the filing fees required by the Notice mailed January 29, 2008 were provided to applicant's former attorney of record. Petitioner asserts that the former attorney of record acknowledged receipt of the fees and implied that the fees had been submitted to the Office. Petitioner has provided a copy of the check submitted to former counsel, Mr. Troxell, as well as a copy of correspondence from Mr. Troxell acknowledging receipt of the funds.

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

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

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

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

MPEP 711.03(c), subsection II D provides an applicant seeking revival of an abandoned application is advised to file a petition pursuant to 37 CFR 1.137 within 3 months of the first notification that the application is abandoned to avoid the question of intentional delay being raised by the Office (or by third parties seeking to challenge any patent issuing from the

application). Where a petition pursuant to 37 CFR 1.137(a) or (b) is not filed within 3 months of the date the applicant is first notified that the application is abandoned, the Office may consider there to be a question as to whether the delay was unavoidable or unintentional.

In such instances,

(A) the Office will require a showing as to how the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(a) petition was filed was "unavoidable"; or

(B) the Office may require further information as to the cause of the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(b) petition was filed, and how such delay was "unintentional."

The petition and supporting documentation have been carefully reviewed. However, the Office is not persuaded that the delay in filing the initial petition was unavoidable. Petitioner has failed to specifically state when it was discovered that the application was abandoned. The declaration submitted by the applicant, merely states "it has only recently come to the attention...this case became abandoned for failure to pay the filing fees." Due to the lengthy period of abandonment, more than two years, the Office is unable to make a determination that the entire period of delay has been unavoidable.

As petitioner has failed to establish that the entire period of delay has been unavoidable, the Office is precluded from reviving the instant application under the provisions of 37 CFR 1.137(a).

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.

ALTERNATE VENUE

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 required petition fee.

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

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

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

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

By 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) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Cc: Yen Jung Sung
2180 38 St. # C8
Astoria, NY 11105

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 08 2011
OFFICE OF PETITIONS

Yen Jung Sung
30-47 37 St.
Astoria NY 11103

In re Application of	:	
Lu	:	
Application No. 12/003,955	:	DECISION ON PETITION
Filed: January 3, 2008	:	
Attorney Docket No. Asia-059-US3624	:	

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

The petition is **GRANTED.**

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts (Notice), which was mailed on January 29, 2008. The Notice set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on March 30, 2008. Notice of Abandonment was mailed October 9, 2008. A petition under 37 CFR 1.137(a) was filed September 14, 2010 and dismissed December 7, 2010.

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

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

In view thereof, the petition is hereby **GRANTED**.

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Astoria NY 11103

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DEC 07 2010

OFFICE OF PETITIONS

In re Application of
Lu
Application No. 12/003,956
Filed: January 3, 2008
Attorney Docket No. Asia-058-US3623

DECISION ON PETITION

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed September 14, 2010, to revive the above-identified application.

The petition is **DISMISSED.**

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

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts (Notice), which was mailed on January 29, 2008. The Notice set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on March 30, 2008. Notice of Abandonment was mailed October 7, 2008.

Petitioner attributes the delay in timely responding to the Notice to the misrepresentations and omissions by prior counsel Bruce Troxell. Petitioner states Mr. Troxell caused applicant's local agents in Taiwan to believe the application was pending, when in fact the filing fees which had been paid in advance had been misappropriated by attorney Troxell.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item(s) (3).

As to item (1), the petition fails to satisfy the reply requirement. In this regard, petitioner has submitted a fee in the amount of $260.00 whereas the Office of Finance advises the undersigned

that the required fee is now $270.00. Any request for reconsideration must satisfy the reply requirement set forth above.

As to item (3), petitioner has failed to establish that the entire delay, from the time that a reply to the Notice was due until the filing of a grantable petition, has been unavoidably delay.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

In general, the Office looks to the actions or inactions of duly authorized and voluntarily chosen representatives of an applicant. Further, applicant is bound by the consequences of those actions or inactions. See, Link v. Wabash, 370 U.S. 626, 633-34 (1962).

Petitioner herein asserts that the filing fees required by the Notice mailed January29, 2008 were provided to applicant's former attorney of record. Petitioner asserts that the former attorney of record acknowledged receipt of the fees and implied that the fees had been submitted to the Office. Petitioner has provided a copy of the check submitted to former counsel, Mr. Troxell, as well as a copy of correspondence from Mr. Troxell acknowledging receipt of the funds.

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

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

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

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

MPEP 711.03(c), subsection II D provides an applicant seeking revival of an abandoned application is advised to file a petition pursuant to 37 CFR 1.137 within 3 months of the first notification that the application is abandoned to avoid the question of intentional delay being raised by the Office (or by third parties seeking to challenge any patent issuing from the

application). Where a petition pursuant to 37 CFR 1.137(a) or (b) is not filed within 3 months of the date the applicant is first notified that the application is abandoned, the Office may consider there to be a question as to whether the delay was unavoidable or unintentional.

In such instances,

(A) the Office will require a showing as to how the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(a) petition was filed was "unavoidable"; or

(B) the Office may require further information as to the cause of the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(b) petition was filed, and how such delay was "unintentional."

The petition and supporting documentation have been carefully reviewed. However, the Office is not persuaded that the delay in filing the initial petition was unavoidable. Petitioner has failed to specifically state when it was discovered that the application was abandoned. The declaration submitted by the applicant, merely states "it has only recently come to the attention...this case became abandoned for failure to pay the filing fees." Due to the lengthy period of abandonment, more than two years, the Office is unable to make a determination that the entire period of delay has been unavoidable.

As petitioner has failed to establish that the entire period of delay has been unavoidable, the Office is precluded from reviving the instant application under the provisions of 37 CFR 1.137(a).

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.

ALTERNATE VENUE

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 required petition fee.

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

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

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

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

By 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) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Cc: Yen Jung Sung
2180 38 St. # C8
Astoria, NY 11105

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MAR 08 2011

OFFICE OF PETITIONS

Yen Jung Sung
30-47 37 St.
Astoria NY 11103

In re Application of	:	
Lu	:	
Application No. 12/003,956	:	DECISION ON PETITION
Filed: January 3, 2008	:	
Attorney Docket No. Asia-058-US3623	:	

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

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts (Notice), which was mailed on January 29, 2008. The Notice set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on March 30, 2008. Notice of Abandonment was mailed October 7, 2008. A petition under 37 CFR 1.137(a) was filed September 14, 2010 and dismissed December 7, 2010.

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

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

In view thereof, the petition is hereby **GRANTED**.

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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ASTORIA NY 11103

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In re Application of	:	
Hsueh-Jung Lu	:	DECISION ON PETITION
Application Number: 12/003959	:	
Filing Date: 01/03/2008	:	
Attorney Docket Number: Asia-044-US3622	:	

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

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

The application became abandoned on March 30, 2008, for failure to timely file a response to the Notice to File Missing Parts of Nonprovisional Application mailed on January 29, 2008, which set a two (2)-month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on October 7, 2008.

Petitioner asserts that the delay was unavoidable because petitioner's previous patent practitioner, Bruce Troxell, did not pay the fees due in the Notice to File Missing Parts mailed on October 9, 2007, despite having received the fee from applicants. Petitioner asserts that Troxell misrepresented that the fees had been paid to the USPTO when, in fact the fees had not been paid, and, rather than paying the fee to the USPTO, misappropriated it. In support, petitioner has provided, *inter alia*, an invoice in which Troxell acknowledged receipt of the fees due, as well as a copy of the check sent to Troxell to cover the filing fees and attorney fees. Petitioners note that Troxell is no longer registered to practice before the USPTO, and that this is one of a number of cases in which Troxell received payment of USPTO fees from the client, but did not submit the fees to the USPTO.

Further, petitioners state that "[t]he only reason the Applicant became aware of the abandonment is because of the diligence of the local agent, who had become suspicious of Mr. Troxell."

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

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

The petition lacks item (1).

The petition lacks the required reply. An additional $10.00 is due to complete the required basic filing, search, and examination fees.

Any renewed petition must be accompanied by the $10.00 fee payment.

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

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

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

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

A reply may also be filed using the EFS-Web System of the USPTO.

The address in the petition is different from the correspondence address of record. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

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

Cc:

YEN JUNG SUNG
2180 38TH ST #C8
ASTORIA NY 11105

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United States Patent and Trademark Office
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FEB 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Hsueh-Jung Lu	:	DECISION ON PETITION
Application Number: 12/003959	:	
Filing Date: 01/03/2008	:	
Attorney Docket Number: Asia-044-US3622	:	

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

The petition is **granted**.

The application became abandoned on March 30, 2008, for failure to timely file a response to the Notice to File Missing Parts of Nonprovisional Application mailed on January 29, 2008, which set a two (2)-month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on October 7, 2008. The petition filed on July 29, 2010 was dismissed on December 7, 2010.

The application is restored to pending status.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE, SUITE 101
ELLICOTT CITY MD 21043

In re Application of	:	
Aling LAI	:	
Application No. 12/003,960	:	ON PETITION
Filed: January 3, 2008	:	
Attorney Docket No. MR1683-925	:	

This is a decision on the petition, filed May 7, 2010, which is requesting that the requirement be waived or suspended pursuant to 37 CFR 1.183.

The petition is **DISMISSED.**

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed January 29, 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 March 30, 2008. A Notice of Abandonment was mailed October 7, 2008.

In the petition filed May 7, 2010, petitioner has requested waiver of the requirement for any petition fees in regard to reinstatement of the above-identified application. Petitioner asserts that the facts surrounding the requirement for the petition has created an extraordinary situation and that justice requires the Director of Patents and Trademarks to suspend the rules where the applicants did everything necessary to ensure a proper filing and payment of all required fees. Petitioner further asserts that Attorney Bruce Troxel was appointed attorney to prosecute the above-identified application in the USPTO. However, Mr. Troxel failed to pay the required fees to the Office in response to the Notice mailed January 29, 2008. Petitioner states "the fees were paid to Mr. Troxel and a filing receipt was received, thus applicants had no reason to believe any other actions were required on their part and are completely and totally harmless."

37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived by the Commissioner.

The petition cannot be granted under 37 CFR 1.183 because reliance on Attorney Troxel to pay the required fees, is not considered an extraordinary situation and no other extraordinary circumstances have been presented. Based on the facts presented, the Office will not waive the rules.

As authorized, the petition fee under 37 CFR 1.183 is being charged to Deposit Account No. 18-2011.

Telephone inquiries regarding this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

MAILED

SEP 08 2010

OFFICE OF PETITIONS

In re Application of :
Aling Lai :
Application No. 12/003,960 : DECISION ON REQUEST FOR REFUND
Filed: January 3, 2008 :
Attorney Docket No. MR1683-925 :

This is a decision on the Request For Refund filed August 19, 2010.

The request is **GRANTED**.

As authorized, the $400.00 petition fee charged on May 7, 2010, has been credited to petitioner's deposit account.

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
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Alexandria, VA 22313-1450
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MAILED

DEC 08 2010

OFFICE OF PETITIONS

YEN JUNG SUNG
30-47 37 ST
ASTORIA NY 11103

In re Application of	:	
Wen-Chun Chen	:	
Application No. 12/003,961	:	ON PETITION
Filed: January 3, 2008	:	
Attorney Docket No. Asia-057-US3618	:	

This is a decision on the petition to revive under 37 CFR 1.137(a), filed September 10, 2010.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)". Extensions of time under 37 CFR 1.136(a) are permitted. No additional petition fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed January 29, 2008. This Notice set an extendable period for reply of two (2) months to submit the statutory basic filing fee, surcharge for its late filing, examination fee and search fee. No fees having been received, the application became abandoned on March 30, 2008. The Office mailed a Notice of Abandonment on October 7, 2008.

Petition Under 37 CFR 1.137(a):

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

Here, the instant petition has not satisfied requirement (1) above. Petitioner has not submitted the full amount of the filing fees due. Petitioner submitted $535 for the filing fees. However, $545 is due - $165 for the statutory basic filing fee, $270 for the search fee, and $110 for the examination fee. No authorization to charge any additional fees to a deposit account was present.

Accordingly, on renewed petition, petitioner must submit the $10 balance due.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JAN 25 2011

OFFICE OF PETITIONS

YEN JUNG SUNG
30-47 37 ST
ASTORIA NY 11103

In re Application of	:	
Wen-Chun Chen	:	
Application No. 12/003,961	:	ON PETITION
Filed: January 3, 2008	:	
Attorney Docket No. Asia-057-US3618	:	

This is a decision on the renewed petition to revive under 37 CFR 1.137(a), filed December 20, 2010.

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

The above-identified application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed January 29, 2008. This Notice set an extendable period for reply of two (2) months to submit the statutory basic filing fee, surcharge for its late filing, examination fee and search fee. No fees having been received, the application became abandoned on March 30, 2008. The Office mailed a Notice of Abandonment on October 7, 2008. Applicant filed a petition to revive under 37 CFR 1.137(a) on September 10, 2010. However, the petition was dismissed in a decision mailed on December 8, 2010. The petition was dismissed because

petitioner did not submit the full amount of the filing fees that were due.

Petition Under 37 CFR 1.137(a):

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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

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

On petition, petitioner has explained that the previous attorney, Bruce Troxell, misappropriated the filing fees and failed to represent that the application was abandoned. Applicants have

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

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

shown that they acted with appropriate diligence, given that they were located in Taiwan.

In view of the above, and in view of the fact that attorney Troxell has recently been excluded from practice, it is concluded that petitioner has met his burden of establishing that the delay was unavoidable.

Receipt of the balance of the basic filing fee due is acknowledged.

The matter is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries concerning 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

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.
12/003,978	01/04/2008	Yuichi Kinoshita	ISH-036	7032

32628 7590 03/07/2011
KANESAKA BERNER AND PARTNERS LLP
1700 DIAGONAL RD
SUITE 310
ALEXANDRIA, VA 22314-2848

EXAMINER
PATEL, VISHAL A

ART UNIT	PAPER NUMBER
3676	

MAIL DATE	DELIVERY MODE
03/07/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR - 7 2011

Kanesaka, Berner & Partners, LLP
1700 Diagonal Road
Suite 310
Alexandria, VA 22314-2848

In re Application of
Yuichi Kinoshita
Application No. 12/003,978
Filed: January 4, 2008
For: METAL GASKET

: DECISION ON THE PETITION
: REGARDING REQUEST TO
: WITHDRAW REQUIREMENT
: FOR RESTRICTION

Applicant's petition filed under 37 CFR 1.181, which is being treated as a petition under 37 CFR 1.144, filed February 22, 2011, requests the supervisor to mandate that the examiner reinstate claims 8-15, withdrawn by original presentation in the final Office action of October 28, 2010.

The petition is **GRANTED**.

A review of the file record indicates that in response to an amendment by the applicant filed September 7, 2010 which added claims 8-15, the examiner required restriction between the originally filed claims 1-7 and newly filed claims 8-15. Because the applicant had already received an examination on the merits of claims 1-7, the examiner indicated that this invention had been constructively elected by original presentation in a Final rejection dated October 28, 2010. In the restriction the examiner required restriction between Invention I (the subcombination recited in Claims 1-7) and Invention II (the combination recited in Claims 8-15).

On January 28, 2011, the applicant argued that the restriction was improper, that the constructive election was improper and that claim 8-15 should be examined with claims 1-7. The examiner was not persuaded, and in the Advisory Action of February 7, 2011 repeated the reason stated in the Final rejection that "...the applicant is now positively claiming fluid pressure that can be received from a device or members that receive the gasket, hence applicant is claiming a combination." The examiner goes on to state that "the combination does not require the all the limitations of the sub-combination". Finally the examiner indicates that "the combination would be in a different class and would require a different search and this would be a serious burden."

The applicant filed the instant petition which argues that the above-noted statements are not considered to be correct. Applicant argues that the claims do not positively claim a "fluid pressure" but merely claims the fluid pressure inferentially, and thus there is no combination of the gasket having a fluid pressure claimed. Applicant also argues that there is no serious burden on the examiner as the examiner has only provided a general allegation of the newly added claims needing a different search.

Initially, looking at the original restriction of August 19, 2008, it is noted that in order for two inventions to be properly restrictable as combination/subcombination, it is required that the examiner explain that the combination is separately patentable without the particulars of the subcombination. The examiner indicates that "the metal gasket claimed in claims 1-7 is not required for the combination claim in claims 8-15." This is not understood since added claim 8 appears to have the exact wording of claim 1 incorporated as part of the claim. Given this fact, it is not clear how the specific subcombination of claim 1 is patentably distinct from the combination of the specific subcombination and additional subject matter that comprises claim 8, as required in MPEP 806.05(c). Also, "restriction is only proper when there would be a serious burden if restriction were not required". The examiner has not explained a sufficient justification for serious burden with a general statement of the requirement for "a new search".

It can be argued that claim 8 does not claim a gasket that is only capable of receiving a fluid pressure, but rather positively claims that it does receive a fluid pressure, and thus not necessarily merely inferentially claim the fluid pressure as applicant argues. However, even if the fluid pressure is positively claimed, the examiner has not provided a satisfactory explanation of how the combination and subcombination exhibit 2-way distinctness along with a serious burden if examination was mandated as required by MPEP 806.05(c).

Given the above conclusions, the inventions of claims 1-7 and claims 8-15 are not seen as properly being restrictable as combination/subcombination, as they have not been shown to be distinct so as to be able to support separate patents. Furthermore, no sufficient showing of serious burden has been demonstrated by the examiner. Therefore the restriction by original presentation made by the examiner in the Final rejection of October 28, 2010 is hereby **WITHDRAWN**.

From an earlier uncontested election of species, claim 5 had been previously withdrawn. Furthermore, applicant filed claims 8-15 with an acknowledgement that claims 13-14 should be withdrawn as well.

This application is being returned to the examiner to issue a new Office action that includes an examination on the merits of pending claims 1-4, 6-12 and 15, consistent with this decision.

The petition of February 22, 2011 is **GRANTED**.

Any questions or comments with respect to this decision should be forwarded to Quality Assurance Specialist Steven N. Meyers at (571) 272-6611.

Dave Talbott, Director
Patent Technology Center 3600
(571) 272-5150

snm/snm: 3/2/11

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD, VA 22116

MAILED

JUN 06 2011

OFFICE OF PETITIONS

In re Patent No. 7,944,982	:	
Issue Date: May 17, 2011	:	
Application No. 12/004,000	:	ON PETITION
Filed: January 4, 2008	:	
Attorney Docket No. ASTP0273USA	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed April 11, 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**.

There is no indication that the request is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Sang N. Dang appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that they are authorized to represent the particular party on whose behalf they act. If, Sang N. Dang desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Sang N. Dang, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

cc: SANG N. DANG
KLEIN, O'NEILL & SINGH, LLP
18200 VON KARMAN AVE, SUITE 725
IRVINE, CA 92612

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.
12/004,025	12/18/2007	Hongsheng Su	3800007.00045 / 609	8214

77202 7590 03/14/2011
K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego, CA 92130

EXAMINER
XIE, XIAOZHEN

ART UNIT	PAPER NUMBER
1646	

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 1 4 2011

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

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

In re Application of:
Su, et al.
Serial No.: 12/004,025
Filed: December 18, 2007
Attorney Docket No: **3800007.00045 / 609**

: PETITION DECISION

This is in response to the petition filed on January 7, 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 September 23, 2008; June 18, 2010; and December 31, 2010 in connection with the above-referenced application and consideration by the Examiner of the documents and information contained therein.

Applicants argue the "Information Disclosure Statements were submitted in connection with the above-captioned application on September 23, 2008; June 18, 2010; and December 31, 2010. Each Information Disclosure Statement was prepared in accordance with 37 C.F.R 1.97 and 1.98. As required under 37 C.F.R 1.98, each Information Disclosure Statement contained 1) a list of all patents, publications, applications, or other information submitted for consideration by the Office, including a column that provides a space next to each document to be considered, for the examiner's initials and a heading that clearly indicates that the list is an Information Disclosure Statement; and 2) legible copies of all items listed. The items either were in English or a translation was provided. A copy of the misclassified Information Disclosure Statements filed on September 23, 2008; June 18, 2010; and December 31, 2010 is attached. The submitted Information Disclosure Statement included a tabular Form PTO-1449, which was classified as an "IDS," and a written disclosure of information. In each instance, the written disclosure of information was misclassified in PAIR as a "Transmittal Letter" (September 23, 2008, "Transmittal Letter" of 8 pages; June 18,2010, "Transmittal Letter" of 3 pages; and December 31, 2010, "Transmittal Letter" of 2 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 September 23, 2008; June 18, 2010; and December 31, 2010.

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

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.
12/004,045	12/20/2007	Woei-Jer Chuang	ANC10477P00030US	8022

7590 04/15/2011
WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO, IL 60661

EXAMINER
LANDSMAN, ROBERT S

ART UNIT	PAPER NUMBER
1647	

MAIL DATE	DELIVERY MODE
04/15/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

April 14, 2011

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO IL 60661

Re Application of	
CHUANG, WOEI-JER, Et. Al	: **DECISION ON PETITION**
Application No: **12/004045**	: **ACCEPTANCE OF COLOR**
Filed: **12/20/2007**	: **DRAWINGS**
Attorney Docket No: **ANC10477P00030US**	:

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) December 20, 2007.

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

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

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

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

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

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110627A

DATE : June 27, 2011

TO SPE OF : ART UNIT 1761

SUBJECT : Request for Certificate of Correction on Patent No.: 7780742 B2

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:

/HAROLD PYON/
Supervisory Patent Examiner.Art Unit 1761

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110627A

DATE : June 27, 2011

TO SPE OF : ART UNIT 1761

SUBJECT : Request for Certificate of Correction on Patent No.: 7780742 B2

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:

/HAROLD PYON/
Supervisory Patent Examiner.Art Unit 1761

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 01-14-12

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 12/004051 Patent No.: 7780742

CofC mailroom date: 10-26-11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

Angela Green 571.272.9005
CofC Branch 703-756-1814

Thank You For Your Assistance

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

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

Comments: _____

SPE HAROLD PYON Art Unit 1761

PTOL-308 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/004,107	12/18/2007	Bran Ferren	0107A-002-001-000000	8755

44765 7590 03/30/2012
THE INVENTION SCIENCE FUND
CLARENCE T. TEGREENE
11235 SE 6TH STREET
SUITE 200
BELLEVUE, WA 98004

EXAMINER
MEHTA, BHISMA

ART UNIT	PAPER NUMBER
3767	

MAIL DATE	DELIVERY MODE
03/30/2012	PAPER

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

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

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THE INVENTION SCIENCE FUND
CLARENCE T. TEGREENE
11235 SE 6TH STREET
SUITE 200
BELLEVUE WA 98004

In re Application of: FERREN, BRAN et al Serial No. 12/004,107 Filed: Dec. 18, 2007 Docket: 0107A-002-001-000000 Title: TREATMENT INDICATIONS INFORMED BY A PRIORI IMPLANT INFORMATION	DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition filed on October 13, 2011 by which petitioner requests reconsideration and withdrawal of the restriction requirement mailed October 15, 2010, and that non-elected claims 295, 320 and 326 be rejoined and examined on the merits. 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. Prosecution is hereby re-opened.

After consulting with the examiner, the requested relief is granted. The restriction requirement mailed on October 15, 2010 is hereby withdrawn. Claims 295, 320 and 326 will be rejoined with the elected invention as set forth in claims 293, 294, 296, 298, 300-307, 323-325 and 327. The examiner will re-open prosecution and issue an Office action to rejoin and treat the non-elected claims 295, 3230 and 326 on the merits in due course. All Rule 116 amendments filed after final rejection of July 13, 2011 will be entered for consideration.

The application is being forwarded to the examiner via Supervisory Patent Examiner of Art Unit 3767 for further consideration of non-elected claims 295, 320 and 326 and the Rule 116 Amendments filed on October 13, 2011 and January 13, 2012. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Donald T. Hajec, Director
Technology Center 3700

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BRADLEY P. HEISLER
HEISLER & ASSOCIATES
3017 DOUGLAS BOULEVARD, SUTIE 300
ROSEVILLE CA 95661

MAILED
MAY 06 2011
OFFICE OF PETITIONS

In re Application of	:	
Robert C. Lenny et al.	:	
Application No. 12/004,141	:	DECISION ON PETITION
Filed: December 19, 2007	:	TO WITHDRAW
Attorney Docket No. **07144.001**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed April 19, 2011.

The request is **NOT APPROVED**.

A review of the file record indicates that Bradley P. Heisler or any attorneys/agents associated with Heisler & Associates does not have power of attorney or was ever given power of attorney in this patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/004,186	12/20/2007	Bernd Christoph Hoetzel	F0506-21US (MDI 01 US)	8635

54380 7590 09/22/2010
FLASTER/GREENBERG P.C.
Four Penn Center
1600 John F. Kennedy Boulevard
2nd Floor
PHILADELPHIA, PA 19103

EXAMINER
PETERSON, KENNETH E

ART UNIT	PAPER NUMBER
3724	

NOTIFICATION DATE	DELIVERY MODE
09/22/2010	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):

usp@flastergreenberg.com
kristyne.bullock@flastergreenberg.com
deborah.ehret@flastergreenberg.com

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FLASTER/GREENBERG P.C.
Four Penn Center
1600 John F. Kennedy Boulevard
2nd Floor
PHILADELPHIA PA 19103

In re Application of:
HOETZEL, BERND CHRISTOPH
Serial No.: 12/004,186
Filed: Dec. 20, 2007
Docket: F0506-21US (MDI 01 US)
Title: METHOD AND DEVICE FOR BREAKING THIN GLASS SHEETS

DECISION ON PETITION TO WITHDRAW HOLDING OF FINALITY

This is a decision on the petition filed on September 8, 2010 to withdraw the finality of the Office Action of August 31, 2010. The petition is being considered pursuant to 37 CFR § 1.181 and no fee is required for the petition.

The petition is dismissed.

In the petition, the applicants requested withdrawal of the finality of the Office action dated August 31, 2010. Petitioner claims that the finality of the Office action is premature because the amendment of June 15, 2009 did not necessitate the new grounds of rejection.

The record shows that:

1. On February 24, 2010 the examiner mailed a non-final Office action. In the non-final Office action, the examiner rejected claims 1-6 under 35 U.S.C. 103(a) as being unpatentable over Soyama (JP6-279042) in view of Barnett (3,559,855). The examiner also takes Official Notice that elastic materials having rebound resilience within the range are well known. The examiner concluded that it would have been obvious to one skilled in the art to have made the planarity deviation be 0.1mm at most, in order to avoid marring or stressing any point on the glass. Examiner took Official Notice that it is well known for glass supporting structures to support minimal planar deviations, as within the claimed range.
2. In response to the non-final Office action mailed February 24, 2010, the applicant filed an amendment on July 26, 2010 and traversed the rejection. In particular, the applicant argues that the features as claimed in the unamended claims 1-6 were patentable over the prior art references. The applicant further challenged the examiner's holding of the

claimed features in claims 1-6 that are not well known in the art. The applicant also argued that the examiner's rejection of the claims fail to meet the legal criteria to establish the element is inherently present.

3. On August 31, 2010, the examiner issued a final Office action. In the final Office action, claims 1-6 were twice rejected under 35 USC 103(a) as obvious over under 35 U.S.C. 103(a) as being unpatentable over Soyama (JP6-279042) in view of Barnett (3,559,855) and Romeca pamphlet. In the final rejection, the rejection of the claims basically remained unchanged except with an additional prior art reference to show the features were well known in the art. The examiner applied a new reference, Romeca pamphlet as support to his earlier taken Official Notice. In particular, on page 3 of the final rejection, the examiner acknowledged that the new prior art reference was added and cited to show relevant art to provide a prima facie case regarding claims 1-6. Therefore, the examiner made the Office action final as permitted.
4. The present petition filed on September 8, 2010 requests withdrawal of the finality of the Office action mailed on August 31, 2010 as premature.

Discussion and Analysis

The relevant portion of MPEP § 706.07(a): Final Rejection, When Proper on Second Action, states:

> 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).

MPEP 2144.03 states: Reliance on Common Knowledge in the Art or "Well Known" Prior Art [R-6]

> *D. Determine Whether the Next Office Action Should Be Made Final*
>
> If the examiner adds a reference in the next Office action after applicant's rebuttal, and the newly added reference is added only as directly corresponding evidence to support the prior common knowledge finding, and it does not result in a new issue or constitute a new ground of rejection, the Office action may be made final. If no amendments are made to the claims, the examiner must not rely on any other teachings in the reference if the rejection is made final. If the newly cited reference is added for reasons other than to support the prior common knowledge statement and a new ground of rejection is introduced by the examiner that is not necessitated by applicant's amendment of the claims, the rejection may not be made final. See MPEP § 706.07(a).

Petitioner requests withdrawal of the finality of the Office action mailed August 31, 2010. Petitioner asserts that a second action on the merits should not be made final because claims 1-6 were never amended. The rejection of claims 1-6 based on a new reference is clearly a new ground of rejection that was not necessitated by any claim amendment from the applicant. Petitioner relies on MPEP §706.07(a) to support his contention.

This line of arguments is not convincing. The issue in the current petition is whether a new reference was necessitated by the applicant's challenge of the holding of the examiner that the elastic materials having rebound resiliencies within the claimed ranges are well known in the art.

The examiner went on to conclude that "given Barnett's suggestion to use a hard urethane as the material upon which to crack the glass, and Romeca's preferences for Volkollan D15 in glass manufacturing for "positioning, damping, protecting, buffering, guiding", it would have been obvious to one of ordinary skill in the art to have selected Volkollan D15 as the material upon which to break the glass." Based on the record, upon the challenge of the applicant's argument that the features were not well known in the art, it is proper for the examiner to introduce a new reference in a new ground of rejection to support the examiner original position and made the rejection final (see MPEP § 2144.03). The final rejection of August 31, 2010 was in compliance with proper examining practice as set forth in MPEP § 706.07(a) and MPEP § 2144.03. The finality of the Office action is appropriate.

Conclusion

For the foregoing reasons, the relief requested by petitioner will not be granted. Specifically, the finality of the Office action dated August 31, 2010 is proper.

The application is being forwarded to Art Unit 3724 for waiting applicant's response to the final rejection of August 31, 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.

Donald T. Hajec, Director
Technology Center 3700

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THOMAS G. PACKARD
7005 150th PL. SW.
EDMONDS, WA 98026

In re Application of

Thomas G. Packard
Application No. 12/004,324
Filed: December 20, 2007
Attorney Docket No.

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 September 13, 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 **DISMISSED AS MOOT.**

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 was awarded "special" status from a petition to make special previously filed December 20, 2007.

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 3728 to await a reply to the outstanding Office mailed June 11, 2010 or the filing of the required Appeal Brief within two months of filing the Notice of Appeal.

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

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PAUL W. MARTIN
NCR CORPORATION, LAW DEPT.
3097 SATELLITE BLVD., 2nd FLOOR
DULUTH GA 30096

In re Application of	:	
Clark et al.	:	
Application No. 12/004,358	:	DECISION ON PETITION
Filed: 12/20/2007	:	
Attorney Docket No. 14056.00	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 29, 2011, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 20, 2011. A Notice of Abandonment was mailed on October 26, 2011.

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

This application is being referred to Technology Center AU 2887 for appropriate action by the Examiner on the reply received on November 9, 2011.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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PAUL W. MARTIN
NCR CORPORATION, LAW DEPT.
3097 SATELLITE BLVD., 2ND FLOOR
DULUTH GA 30096

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In re Application of	:	
Ricardo F. Sanches	:	
Application No. 12/004,359	:	DECISION ON PETITION
Filed: December 20, 2007	:	
Attorney Docket No. 14032.00	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 27, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 28, 2011. A Notice of Abandonment was mailed June 6, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,860.00, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2887 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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ATER WYNNE LLP
1331 NW LOVEJOY ST. SUITE 900
PORTLAND OR 97209-2785

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SEP 3 0 2010

OFFICE OF PETITIONS

In re Application of :
Robinson, et al. :
Application No. 12/004,392 : DECISION ON PETITION
Filing or 371(c) Date: 19 December, 2007 :
Attorney Docket No. 103147-0009 :

This is a decision on the petition filed 20 January, 2010, pursuant to 37 C.F.R. §1.78(a)(3) and §1.78(a)(6) to accept an unintentionally delayed claim 35 U.S.C. §120 and §119(e) for the benefit of a prior filed nonprovisional application and provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

(1) the reference required by 35 U.S.C. §120 and 37 C.F.R. §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 C.F.R. §1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item **(1)**

37 C.F.R. §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.

Applicant files the present petition to claim priority of the present application, in relevant part, as a continuation-in-part of application no. 11/982,707 (the '707 application), filed 2 November, 2007, which claims priority to "is a continuation in part of and claims benefit of priority to U.S. Patent Application Serial No. 09/686,206 *** filed 10 October, 2000"—and further states "the disclosures of which are incorporated by reference in their entirety." However, that incorporation by reference as to the '707 application was not present on deposit of the instant application. Also, the instant claim to Application No. 09/686,206 was not made in the '707 application.

Such a claim of priority is not proper.

(It also is noted that an effort to claim priority as between the '707 application and Application 09/745,257 (the '257 application), it appears that the applications were not copending—the latter application having issued as Patent No. 7,168,051 on 23 January, 2007.)

Before the petition pursuant to 37 C.F.R. §1.78(a)(3) and (a)(6) can be considered and granted, a renewed petition pursuant to 37 C.F.R. §1.78(a)(3) and (a)(6) and a proper Application Data Sheet or a proper substitute amendment (complying with 37 C.F.R. §1.121 and 37 C.F.R. §1.76(b)(5)).

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

By mail: Mail Stop PETITIONS
Director 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

Application No. 12/004,392

Questions concerning this decision may be directed to John Gillon, attorney, at (571) 272-3214; questions as to the application may be directed to the Technology Center/AU 2432.

Chris Bottorff
Supervisory Petitions Examiner
Office of Petitions

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1331 NW LOVEJOY ST. SUITE 900
PORTLAND OR 97209-2785

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OFFICE OF PETITIONS

In re Application of :
Robinson, et al. :
Application No. 12/004,392 : DECISION ON PETITION
Filing or 371(c) Date: 19 December, 2007 :
Attorney Docket No. 103147-0009 :

This is a decision on the petition filed on 22 July, 2011, pursuant to 37 C.F.R. §1.78(a)(3) and §1.78(a)(6) to accept an unintentionally delayed claim 35 U.S.C. §120 and §119(e) for the benefit of a prior filed nonprovisional application and provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. §120 and 37 C.F.R. §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 C.F.R. §1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant application was filed on 19 December, 2007. Office records reflect that the new claim was presented in an amendment on 22 July, 2011.

(It is noted that it appears Petitioner did not submit an application data sheet (ADS), and will wish to do so without delay.)

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

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

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

This application is being forwarded to the examiner of Technology Center/AU 3763 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the above-noted, prior-filed applications.

Any questions concerning this decision on petition may be directed to John J. Gillon, Jr. attorney, at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Chris Bottorff
Supervisory Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
12/004,392	12/19/2007	3621	770	103147-0009	25	1

CONFIRMATION NO. 9600

CORRECTED FILING RECEIPT

35940
ATER WYNNE LLP
1331 NW Lovejoy St. Suite 900
PORTLAND, OR 97209-2785

OC000000049189108

Date Mailed: 08/12/2011

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)

Jack D. Robinson, Vacaville, CA;
Peter Muller, Woodside, CA;
Timothy Noke, Santa Clara, CA;
Teng Lew Lim, Mountain View, CA;
Wallace Glausi, Menlo Park, CA;
Larry Fullerton, New Hope, AL;

Assignment For Published Patent Application

ADDnCLICK, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 35940

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/877,891 12/28/2006
and claims benefit of 60/918,984 03/19/2007
and is a CIP of 09/686,206 10/10/2000 ABN
and is a CIP of 09/749,091 12/26/2000 ABN
and is a CIP of 11/982,707 11/02/2007
and is a CIP of 11/477,162 06/28/2006 ABN

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: 01/29/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/004,392**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Method of inserting/overlaying markers, data packets and objects relative to viewable content and enabling live social networking, N-dimensional virtual environments and/or other value derivable from the content

Preliminary Class

726

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/004,397	12/20/2007	Rickey P. Hicks	ARMY186	9222

7590 04/11/2012
U.S. Army Medical Research and Material Command
Attn: MCMR-ZA-J (Ms. Elizabeth Arwine)
504 Scott Street
Fort Detrick, MD 21702-5012

EXAMINER
CORDERO GARCIA, MARCELA M

ART UNIT	PAPER NUMBER
1654	

MAIL DATE	DELIVERY MODE
04/11/2012	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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April 12, 2012

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2350
MILWAUKEE WI 53202-4426

In re Application of	:	
Audrey P. Gasch et al.	:	**DECISION ON PETITION**
Application No. 13232327	:	
Filed: 9/14/2011	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 960296.01273	:	***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 23, 2012 .

The petition is **GRANTED**.

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

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

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

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

/Don Fairchild/
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Muncy, Geissler, Olds & Lowe, PLLC
4000 Legato Road
Suite 310
FAIRFAX VA 22033

MAILED
APR 18 2011
OFFICE OF PETITIONS

In re Application of:	:	
Shen-Hsiung Chang	:	
Application No. 12/004,487	:	DECISION ON PETITION
Filing Date: December 21, 2007	:	
Attorney Docket No. 5545/0286PUS1	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed January 28, 2008, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on March 29, 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 fees, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of January 28, 2008 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 Tredelle Jackson at 571-272-2783.

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 22 2010

OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

In re Application of	:	
Tucker et al.	:	DECISION ON PETITION
Application No. 12/004,502	:	TO WITHDRAW
Filed: December 21, 2007	:	FROM RECORD
Attorney Docket No. 069748-0206	:	

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

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 Gilberto M. Villacorta, on behalf of the practitioners of record associated with Customer No 22428.

Customer No 22428 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 July 30, 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: EMERGENT PRODUCT DEVELOPMENT GAITHERSBURG INC.
300 PROFESSIONAL DRIVE
GAITHERSBURG, MD 20879

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
12/004,502	12/21/2007	Kenneth Tucker	069748-0206

CONFIRMATION NO. 9453

POWER OF ATTORNEY NOTICE

22428
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

OC000000043639552

Date Mailed: 09/22/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/30/2010.

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

/atkelley/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 06 2011

OFFICE OF PETITIONS

YEN JUNG SUNG
30-47 37 ST.
ASTORIA, NY 11103

In re Application of	:	
Yuan-Wen Yu	:	
Application No. 12/004,507	:	DECISION ON PETITION
Filed: December 21, 2007	:	
Attorney Docket No. Asia-043-US3613	:	

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed August 4, 2010, to revive the above-identified application.

The petition is **DISMISSED.**

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-provisional Application (Notice), mailed December 11, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 12, 2008.

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

With respect to item 1:

A petition to revive cannot be granted where there is an outstanding requirement. In the instant application the response to the outstanding Office mailed December 11, 2007 was incomplete. While it is noted that petitioner did file a reply to the Notice action mailed December 11, 2007, however, the fees were insufficient. The cost of the examination fee paid was $100. As of September 30, 2008, the fees were increased to $110. Petitioner must pay an additional $10 to make the reply complete.

With respect to item 3:

Petitioner attests that the delay in filing a timely response to the Notice to File Missing Parts of Non-provisional Application was unavoidable due to the action or inaction of Bruce Troxell, the duly authorized and chosen representative of the applicant.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting *Ex parte Pratt*, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also *Winkler v. Ladd*, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); *Ex parte Henrich*, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." *Haines v. Quigg*, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Specifically, petitioner states that Bruce Troxell caused the local agents in Taiwan to believe that this application and others like it, were pending when, in fact the filing fees that had been paid in advance has been misappropriated by Mr. Troxell.

Petitioner has submitted no evidence which indicates that petitioner was misled by Mr. Troxell with respect to the above-identified application. In this regard, petitioner submitted an invoice dated December 21, 2007 along with a transmittal letter from Mr. Troxell indicating that $555 in fees were to be paid to the USPTO. A review of the application shows that a letter from Mr. Troxell stating the filing of the application, however there is no indication that the application fees were paid.

The record also indicates that Mr. Troxell was responsible for prosecution of the above identified application when the reply necessary to avoid abandonment was due. Therefore, petitioner must provide a statement from Mr. Troxell explaining why action was not timely taken to prevent the above-identified application from becoming abandoned.

Petitioner is advised to send a letter (accompanied by a copy of this decision) to Mr. Troxell, by certified or registered mail (return receipt requested) indicating that the Patent and Trademark Office is requesting assistance in ascertaining the cause of abandonment of the above-identified application, and that the Patent and Trademark Office is request that Mr. Troxell provide within a specified period (e.g., one month) a statement setting forth why appropriate action was not timely taken to prevent abandonment of the above-identified application from becoming abandoned. Petitioner is advised that in the event that Mr. Troxell does not provide such a statement, petitioner should submit a copy of such letter and the return receipt.

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

While the showing of the record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of the unintentional delay.

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

Petitioner is reminded that the Patent and Trademark Office is not the proper forum for resolving disputes between applicants and their representatives. *See Ray v. Lehman*, 55 F.3d 606,34 USPQ2d 1786 (Fed. Cir. 1995).

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.

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

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

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

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

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

/dab/
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YEN JUNG SUNG
30-47 37 ST.
ASTORIA, NY 11103

MAILED

JUL 05 2011

OFFICE OF PETITIONS

In re Application of :
Yuan-Wen Yu :
Application No. 12/004,507 :
Filed: December 21, 2007 :
Attorney Docket No. Asia-043-US3613 :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), filed May 27, 2011, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-provisional Application (Notice), mailed January 28, 2008. The Notice set a period of reply of two 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 March 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of the application filing, search and examination fees and the surcharge for the late submission of the filing fee; (2) the petition fee of $270; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

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

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Office of Patent Application Processing at their hotline 571-272-4000.

This application is being referred to the Office of Patent Application Processing for pre-examination processing in the normal course of business.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DEC 21 2010

OFFICE OF PETITIONS

Bo-In Lin
13445 Mandoli Drive
Los Altos Hills CA 94022

In re Application of
Ichikawa, et al.
Application No. 12/004,598
Filed: December 24, 2007
Atty. Dkt. No.: SQ-0626

: DECISION ON PETITION

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

The petition is **GRANTED**.

This application became abandoned October 16, 2010 for failure to timely reply to the Notice of Allowance and Issue Fee Due (Notice) mailed July 15, 2010. The Notice set a three (3) month statutory period of time for reply. Notice of Abandonment was mailed October 28, 2010.

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

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

OPAP
SEP 1 5 2010
IAP9
PATENT & TRADEMARK OFFICE

ATTY. DOCKET NO.: U 017133-0

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of:	JIANYING PAN	Examiner: MATAR, AHMAD
Appln. No.:	12/004,608	Art Unit: 2614
Filed:	December 21, 2007	Confirmation No.: 1977
For:	SYSTEM AND METHOD FOR SELECTING RINGBACK TONE IN REAL TIME	
Attorney Docket No.:	U 017133-0	
Client Ref:	0615737US	

MAIL STOP PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION FOR SPECIAL STATUS UNDER 37 C.F.R. §1.102 FILED IN CONNECTION WITH A LETTER OF EXPRESS ABANDONMENT UNDER 37 C.F.R. §1.138(A) AS REQUIRED UNDER THE BACKLOG REDUCTION STIMULUS PLAN

Sir:

Applicants hereby request Special Status under 37 C.F.R. §1.102 to expedite processing above-identified U.S. Patent Application Serial No. 12/004,608 under the Patent Application Backlog Reduction Stimulus Plan. In support of this request and petition, Applicants state:

I. Applicants are submitting herewith a letter of Express Abandonment of U.S. Patent Application Serial No. 12/145,823 under 37 C.F.R. §1.138(a) as required under the Patent Application Backlog Reduction Stimulus Plan.

   a. The Application for which express abandonment is requested is U.S. Patent Application Serial No. 12/145,823 filed on June 25, 2008. Accordingly, this Application has a filing date earlier than October 1, 2009.

   b. The Application for which special status is requested is U.S. Patent Application Serial No. 12/004,608 filed on December 21, 2007. Accordingly, this Application has a filing date earlier than October 1, 2009.

c. U.S. Patent Application Serial Nos. 12/145,823 and 12,004,608 are commonly owned by Huawei Technologies Co., LTD. The Applications were commonly owned on October 1, 2009.

II. Applicants submit and affirm that Applicants have not and will not file a new application that claims this same invention under any provision of Title 35 U.S.C.

III. Applicants submit and affirm that Applicants have not received special status for more than fourteen (14) other applications under this program.

IV. Applicants agree to not request a refund of any fees paid in this application.

V. Applicants agree to make any required election without traverse in a telephonic interview if the Office determines that the claims of U.S. Application Serial No. 12/004,608 to be afforded special status are directed to two or more independent and district inventions.

While Applicants believe that no fees are due in connection with this request, Applicants direct the Office to charge the deposit account No. 120425 for any fees deemed owed.

Respectfully submitted,

Dated: September 13, 2010

BY: _____
JOHN RICHARDS; Reg No. 31,053

C/O LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK, NEW YORK 10023
REG. NO. 31,053
TEL. NO. (212) 708-1915

OPAP
SEP 15 2010
IAP9
PATENT & TRADEMARK OFFICE

ATTY. DOCKET NO.: 13674-00009 [0615737US]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of:	ZHANGPING MA	
Appln. No.:	12/145,823	Examiner: Unknown
Filed:	June 25, 2008	Art Unit: 2617
For:	METHOD FOR IMPLEMENTING DO-NOT-DISTURB SERVICE AND INTELLIGENT PHONE TERMINAL	Confirmation No.: 3992
Attorney Docket No.:	13674-9	
Client Ref:	0615737US	

MAIL STOP EXPRESS ABANDONMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

LETTER OF EXPRESS ABANDONMENT UNDER 37 C.F.R. §1.138(A) FILED IN CONNECTION WITH A PETITION FOR SPECIAL STATUS UNDER 37 C.F.R. §1.102 AS REQUIRED UNDER THE BACKLOG REDUCTION STIMULUS PLAN

Sir:

Applicants hereby request Express Abandonment of U.S. Patent Application Serial No. 12/145,823 under 37 C.F.R. §1.138(a) in order to obtain Special Status under 37 C.F.R. §1.102 and expedite processing of commonly-owned, co-pending U.S. Patent Application Serial No. 12/004,608 under the Patent Application Backlog Reduction Stimulus Plan. In support of this request and petition, Applicants state:

I. The Application for which express abandonment is requested is U.S. Patent Application Serial No. 12/145,823 filed on June 25, 2008. Accordingly, this Application has a filing date earlier than October 1, 2009.

II. The Application for which special status is requested is U.S. Patent Application Serial No. 12/004,608 filed on December 21, 2007. Accordingly, this Application has a filing date earlier than October 1, 2009.

III. U.S. Patent Application Serial Nos. 12/145,823 and 12/004,608 are commonly owned by Huawei Technologies Co., LTD. The Applications were commonly owned on October 1, 2009.

IV. Applicants submit an executed Form PTO/SB/24, petition of Express Abandonment under C.F.R. §1.138(a), contemporaneously with the Letter and Petition discussed herein. The petition of Express Abandonment under C.F.R. §1.138(a) requests abandonment of above-identified U.S. Patent Application No. 12/145,823.

V. Applicants submit a petition for Special Status under 37 C.F.R. §1.102(a) in connection with U.S. Patent Application Serial No. 12/004,608 as required under the Patent Application Backlog Reduction Stimulus Plan. The petition states:

a. Applicants submit and affirm that Applicants have not and will not file a new application that claims this same invention under any provision of Title 35 U.S.C.;

b. Applicants agree to not request a refund of any fees paid in this application.

c. Applicants submit and affirm that Applicants have not received special status for more than fourteen (14) other application under this program.

d. Applicants agree to make any required election without traverse in a telephonic interview if the Office determines that the claims of U.S. Application Serial No. 12/004,608 to be afforded special status are directed to two or more independent and district inventions.

While Applicants believe that no fees are due in connection with this request, Applicants direct the Office to charge Applicant's Deposit Account for any fees deemed owed.

Respectfully submitted,
BRINKS HOFER GILSON & LIONE

Dated: 8/19/10 BY: _____
Gustavo Siller Jr., Reg. No. 32305

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK NY 10023

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of :
PAN, et al. :
Application No. 12/004,608 :
Filed: December 21, 2007 :
Attorney Docket No. **U 017133-0** :

DECISION ON PETITION
TO MAKE SPECIAL
37 CFR 1.102

This is a decision on the petition under 37 CFR 1.102, filed September 15, 2010, to make the above-identified application special under the Patent Application Backlog Reduction Stimulus Plan which is a pilot program set forth at 74 Federal Register Notice 62285 (November 27, 2009) and 75 Federal register Notice 36063 (June 24, 2010).

The petition is **DISMISSED**.

Any request for reconsideration of this decision should include a cover letter entitled "Renewed Petition under 37 CFR 1.102." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 62285 and 75 FR 36063 must be directed to a nonprovisional application filed prior to October 1, 2009.

The USPTO will accord special status for examination under Patent Application Backlog Reduction Stimulus Plan under the following conditions:

(1) The application for which special status is sought is a nonprovisional application that has an actual filing date earlier than October 1, 2009;

(2) The applicant has another copending nonprovisional application that has an actual filing date earlier than October 1, 2009, and is complete under 37 CFR 1.53;

(3) The application for which special status is sought and the other copending nonprovisional application either are owned by the same party as of October 1, 2009, or name at least one inventor in common;

(4) The applicant files a letter of express abandonment under 37 CFR 1.138(a) in the copending nonprovisional application before it has been taken up for examination and

a) include a statement that the applicant has not and will not file a new application that claims the same invention claimed in the expressly abandoned application;

b) includes with the letter of express abandonment a statement that the applicant has not and will not file an application that claims the benefit of the expressly abandoned application under any provision of title 35, United States Code, and

c) the applicant agrees not to request a refund of any fees paid in the expressly abandoned application; and

(5) The applicant files a petition under 37 CFR 1.102 in the application for which special status is sought that

a) includes a specific identification of the relationship between the applications that qualifies the application for special status;

b) identifies, by application number if available, the application that is being expressly abandoned;

c) provides a statement certifying that applicant has not filed petitions in more than fourteen (14) other applications requesting special status under this program; and

d) provides a statement that applicant agrees to make an election without traverse in a telephonic interview if the Office determines that the claims of the application to be made special are directed to two or more independent and distinct inventions.

The requirement for a fee for consideration of the petition to make special for applications pertaining to Patent Application Backlog Reduction Stimulus Plan has been waived.

The petition lacks Item 4a-c above.

More specifically, the letter of Express Abandonment filed in Application No. 12/145,823, does not include the required statements directed thereto that the applicant (a) has not and will not file a new application that claims the same invention claimed in the expressly abandoned application, (b) has not and will not file an application that claims the benefit of the expressly abandoned application under any provision of title 35, United States Code, and (c) agrees not to request a refund of any fees paid in the expressly abandoned application. The statements made by the applicant on "Page 2 OF 3" of the Letter of Express Abandonment filed in 12/145,823, Item "V", are specifically directed to Application No. 12/004,608 (the application for which special status has been sought) not Application No. 12/145,823 (the application for which the Express Abandonment was filed). As such, the present petition to make special must be dismissed.

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

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

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

By FAX: (571) 273-8300

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

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

The application is being forwarded to the Technology Center Art Unit 2195 for action in its regular turn.

Brian W. Brown
Petitions Examiner
Office of Petitions

Practitioner's Docket No. U 017133-0 ***PATENT***

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Jianying PAN, et al.
Application No.: 12/004,608 Art Unit:
Filed: December 21, 2007 Examiner:
Confirmation No.:
For: SYSTEM AND METHOD FOR SELECTING RINGBACK TONE IN REAL TIME

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

RENEWED PETITION UNDER 37 CFR 1.102

In response to the decision mailed September 30, 2010 and to supplement the petition under 37 CFR 1.102, filed September 15, 2010, submitted herewith is a copy of the Supplemental and Substitute Letter of Express Abandonment of the co-pending nonprovisional application (12/145,823) submitted on October 28, 2010., which includes the required statements under conditions 4a-c of the requirements.

It is respectfully submitted that the requirements to accord special status for examination under Patent Application Backlog Reduction Stimulus Plan have been met and reconsideration of the Petition under 37 CFR 1.102 is requested.

Respectfully submitted,

JOHN RICHARDS
C/O LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK, NEW YORK 10023
REG. NO. 31,053
TEL. NO. (212) 708-1915

Electronic Acknowledgement Receipt

EFS ID:	8723465
Application Number:	12145823
International Application Number:	
Confirmation Number:	3992
Title of Invention:	METHOD FOR IMPLEMENTING DO-NOT-DISTURB SERVICE AND INTELLIGENT PHONE TERMINAL
First Named Inventor/Applicant Name:	Zhangping Ma
Customer Number:	00757
Filer:	Gustavo Siller Jr./Maggie Pieczonka
Filer Authorized By:	Gustavo Siller Jr.
Attorney Docket Number:	13674-9
Receipt Date:	28-OCT-2010
Filing Date:	25-JUN-2008
Time Stamp:	15:51:44
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		13674-9Abandon.PDF	158699 5cd6f6e597568912a36131a59ad72d7c864416aa	yes	4

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Miscellaneous Incoming Letter	1	1
	Letter Express Abandonment of the application	2	4

Warnings:	
Information:	
Total Files Size (in bytes):	158699

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

<u>New Applications Under 35 U.S.C. 111</u>
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

<u>National Stage of an International Application under 35 U.S.C. 371</u>
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

<u>New International Application Filed with the USPTO as a Receiving Office</u>
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

CERTIFICATE OF EFS FILING UNDER 37 CFR §1.8

I hereby certify that this correspondence is being electronically transmitted to the United States Patent and Trademark Office, Commissioner for Patents, via the EFS pursuant to 37 CFR §1.8 on the below date:

Date: October 28, 2010 Name: Gustavo Siller, Jr. Signature: /Gustavo Siller, Jr./

BRINKS HOFER GILSON & LIONE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of:	ZHANGPING MA		
Appln. No.:	12/145,823	Examiner:	Erica Navar
Filed:	June 25, 2008	Art Unit:	2617
For:	METHOD FOR IMPLEMENTING DO-NOT-DISTURB SERVICE AND INTELLIGENT PHONE TERMINAL	Conf. No.:	3992
Attorney Docket No.:	13674-9		
Client Ref. No.:	0615737US		

TRANSMITTAL

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Attached is/are:

☒ Transmittal; Supplemental and Substitute Letter of Express Abandonment .

Fee calculation:

☐ No additional fee is required.

☐ Small Entity.

☐ An extension fee in an amount of $_____ for a ____- month extension of time under 37 CFR § 1.136(a).

☐ A petition or processing fee in an amount of $_____ under 37 CFR § 1.17(___)__ .

☐ An additional filing fee has been calculated as shown below:

						Small Entity			Not a Small Entity	
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra		Rate	Add'l Fee	OR	Rate	Add'l Fee
Total		Minus				x $26=			x $52=	
Indep.		Minus				x 110=			x $220=	
First Presentation of Multiple Dep. Claim						+$195=			+ $390=	
						Total	$		Total	$

Fee payment:

☐ Please charge Deposit Account No. 23-1925 in the amount of $_____ for _____.

☐ Payment by credit card in the amount of $_____ (Form PTO-2038 is attached).

☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

Respectfully submitted,

October 28, 2010
Date

/Gustavo Siller, Jr./
Gustavo Siller, Jr. (Reg. No. 32,305)

CERTIFICATE OF EFS FILING UNDER 37 CFR §1.8

I hereby certify that this correspondence is being electronically transmitted to the United States Patent and Trademark Office, Commissioner for Patents, via the EFS pursuant to 37 CFR §1.8 on the below date:

Date: October 28, 2010 Name: Gustavo Siller, Jr. Signature: /Gustavo Siller, Jr./

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of:	ZHANGPING MA	
Appln. No.:	12/145,823	Examiner: Erica Navar
Filed:	June 25, 2008	Art Unit: 2617
For:	METHOD FOR IMPLEMENTING DO-NOT-DISTURB SERVICE AND INTELLIGENT PHONE TERMINAL	Confirmation No.: 3992
Attorney Docket No.:	13674-9	
Client Ref:	0615737US	

MAIL STOP EXPRESS ABANDONMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SUPPLEMENTAL AND SUBSTITUTE LETTER OF EXPRESS ABANDONMENT UNDER 37 C.F.R. §1.138(A) FILED IN CONNECTION WITH A PETITION FOR SPECIAL STATUS UNDER 37 C.F.R. §1.102 AS REQUIRED UNDER THE BACKLOG REDUCTION STIMULUS PLAN

Sir:

Applicants hereby request Express Abandonment of U.S. Patent Application Serial No. 12/145,823 under 37 C.F.R. §1.138(a) in order to obtain Special Status under 37 C.F.R. §1.102 and expedite processing of commonly-owned, co-pending U.S. Patent Application Serial No. 12/004,608 under the Patent Application Backlog Reduction Stimulus Plan. In support of this request and petition, Applicants state:

I. The Application for which express abandonment is requested is U.S. Patent Application Serial No. 12/145,823 filed on June 25, 2008. Accordingly, this Application has a filing date earlier than October 1, 2009.

II. The Application for which special status is requested is U.S. Patent Application Serial No. 12/004,608 filed on December 21, 2007.

Accordingly, this Application has a filing date earlier than October 1, 2009.

III. U.S. Patent Application Serial Nos. 12/145,823 and 12/004,608 are commonly owned by Huawei Technologies Co., LTD. The Applications were commonly owned on October 1, 2009.

IV. Applicants submit an executed Form PTO/SB/24, petition of Express Abandonment under C.F.R. §1.138(a), contemporaneously with the Letter and Petition discussed herein. The petition of Express Abandonment under C.F.R. §1.138(a) requests abandonment of above-identified U.S. Patent Application No. 12/145,823.

V. Applicants submit a petition for Special Status under 37 C.F.R. §1.102(a) in connection with U.S. Patent Application Serial No. 12/004,608 as required under the Patent Application Backlog Reduction Stimulus Plan.

VI. Applicants submit and affirm that Applicants have not and will not file a new application that claims this same invention under any provision of Title 35 U.S.C.;

VII. Applicants agree to not request a refund of any fees paid in this application.

VIII. Applicants submit and affirm that Applicants have not received special status for more than fourteen (14) other application under this program.

IX. Applicants agree to make any required election without traverse in a telephonic interview if the Office determines that the claims of U.S. Application Serial No. 12/004,608 to be afforded special status are directed to two or more independent and district inventions.

X. Applicants have not and will not file an application that claims benefit to U.S. Patent Application Serial No. 12/145,823 under any provision of title 35, United States Code.

While Applicants believe that no fees are due in connection with this request, Applicants direct the Office to charge Applicant's Deposit Account for any fees deemed owed.

Respectfully submitted,
BRINKS HOFER GILSON & LIONE

Dated: October 28, 2010

BY: /Gustavo Siller, Jr./
Gustavo Siller Jr., Reg. No. 32,305

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK NY 10023

MAILED

NOV 16 2010

OFFICE OF PETITIONS

In re Application of	:	
PAN. et al.	:	DECISION ON
Application No. 12/004,608	:	RENEWED PETITION
Filed: December 21, 2007	:	TO MAKE SPECIAL
Attorney Docket No. **U 017133-0**	:	37 CFR 1.102

This is a decision on the Renewed Petition Under 37 CFR 1.102, filed November 3, 2010, to make the above-identified application special under the Patent Application Backlog Reduction Stimulus Plan which is a pilot program set forth at 74 Federal Register Notice 62285 (November 27, 2009) and 75 Federal register Notice 36063 (June 24, 2010).

The Renewed Petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 62285 and 75 FR 36063 must be directed to a nonprovisional application filed prior to October 1, 2009.

The USPTO will accord special status for examination under Patent Application Backlog Reduction Stimulus Plan under the following conditions:

(1) The application for which special status is sought is a nonprovisional application that has an actual filing date earlier than October 1, 2009;

(2) The applicant has another copending nonprovisional application that has an actual filing date earlier than October 1, 2009, and is complete under 37 CFR 1.53;

(3) The application for which special status is sought and the other copending nonprovisional application either are owned by the same party as of October 1, 2009, or name at least one inventor in common;

(4) The applicant files a letter of express abandonment under 37 CFR 1.138(a) in the copending nonprovisional application before it has been taken up for examination and

a) include a statement that the applicant has not and will not file a new application that claims the same invention claimed in the expressly abandoned application;

b) includes with the letter of express abandonment a statement that the applicant has not and will not file an application that claims the benefit of the

expressly abandoned application under any provision of title 35, United States Code, and

c) the applicant agrees not to request a refund of any fees paid in the expressly abandoned application; and

(5) The applicant files a petition under 37 CFR 1.102 in the application for which special status is sought that

a) includes a specific identification of the relationship between the applications that qualifies the application for special status;

b) identifies, by application number if available, the application that is being expressly abandoned;

c) provides a statement certifying that applicant has not filed petitions in more than fourteen (14) other applications requesting special status under this program; and

d) provides a statement that applicant agrees to make an election without traverse in a telephonic interview if the Office determines that the claims of the application to be made special are directed to two or more independent and distinct inventions.

The requirement for a fee for consideration of the petition to make special for applications pertaining to Patent Application Backlog Reduction Stimulus Plan has been waived.

The instant petition complies with the conditions required under Patent Application Backlog Reduction Stimulus Plan. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Office of Patent Application Processing for further processing commensurate with this decision.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ATER WYNNE LLP
1331 NW LOVEJOY ST. SUITE 900
PORTLAND OR 97209-2785

MAILED
JUL 20 2011
OFFICE OF PETITIONS

In re Application of :
Robinson, et al. :
Application No. 12/004,622 : DECISION
Filed: 20 December, 2007 : ON PETITION
Attorney Docket No.: 103147-0010 :

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 26 April, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed application.

The petition is **GRANTED**.

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

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

The instant application was filed on 20 December, 2007. Office records reflect that the new claim was presented in an amendment on 26 April, 2011.

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.

Application No. 12/004,622

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

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

This application is being forwarded to the examiner of Technology Center/AU 2436 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the above-noted, prior-filed applications.

Any questions concerning this decision on petition may be directed to John J. Gillon, Jr. attorney, at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Cliff Bond

for Anthony Knight
Director, Office of Petitions
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
12/004,622	12/20/2007	2436	980	103147-0010	25	5

CONFIRMATION NO. 1037

CORRECTED FILING RECEIPT

35940
ATER WYNNE LLP
1331 NW Lovejoy St. Suite 900
PORTLAND, OR 97209-2785

OC000000048870950

Date Mailed: 07/20/2011

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

Applicant(s)

Jack D. Robinson, Vacaville, CA;
Peter Muller, Woodside, CA;
Timothy Noke, Santa Clara, CA;
Teng Lew Lim, Mountain View, CA;
Wallace Glausi, Menlo Park, CA;
Larry Fullerton, New Hope, AL;

Assignment For Published Patent Application

ADDnCLICK, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 35940

Domestic Priority data as claimed by applicant

This application is a CON of 12/004,392 12/19/2007
which claims benefit of 60/877,891 12/28/2006
and claims benefit of 60/918,984 03/19/2007
This application 12/004,622
is a CIP of 11/982,707 11/02/2007
which claims benefit of 60/856,404 11/02/2006
and is a CIP of 09/686,206 10/10/2000
This application 12/004,622
is a CIP of 09/686,206 10/10/2000
and is a CIP of 09/749,091 12/26/2000 ABN
and is a CIP of 11/477,162 06/28/2006 ABN
which claims benefit of 60/696,200 07/02/2005
and said 12/004,392 12/19/2007
claims benefit of 60/877,891 12/28/2006

This application 12/004,622
claims benefit of 60/918,984 03/19/2007

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

If Required, Foreign Filing License Granted: 01/26/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/004,622**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

System for inserting/overlaying markers, data packets and objects relative to viewable content and enabling live social networking, n-dimensional virtual environments and/or other value derivable from the content

Preliminary Class

726

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : **7796485**
Ser. No. : **12/004627**
Inventor(s) : **BRAN FERREN ET AL.**
Issued : **9/14/2010**
Title : **METHOD AND SYSTEM FOR FLUID MEDIATED DISK ACTIVATION AND DEACTIVATION**
Docket No. : **1103-006-010A-CDIV03**

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

SEARETE LLC
11235 SE 6TH STREET
SUITE 200
BELLEVUE WA 98004

OL

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE INVENTION SCIENCE FUND
CLARENCE T. TEGREENE
11235 SE 6TH STREET
SUITE 200
BELLEVUE WA 98004

MAILED
DEC 28 2010
OFFICE OF PETITIONS

In re Patent No. 7,796,485	:	
Issue Date: September 14, 2010	:	
Application No. 12/004,627	:	ON PETITION
Filed: December 21, 2007	:	
Attorney Docket No. 1103-006-010A-CDIV03	:	

This is a decision on the petition filed November 19, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-2991. 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.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

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P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

SEP 29 2010

OFFICE OF PETITIONS

Jay M. Brown
6409 Fayetteville Road
Suite 120-306
Durham, NC 27713

In re Application of	:
Robert L. Willett, et. al.	:
Application No. 12/004,628	: DECISION ON PETITION
Filed: December 22, 2007	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. LU05009DIV	:

This is a decision on the petition under 37 CFR 1.78(a)(3) filed on August 16, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

This application is being forwarded to Technology Center Art Unit 1797 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.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center at (571) 272-2100.

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
12/004,628	12/22/2007	1797	1030	LU05009DIV	6	1

CONFIRMATION NO. 1004

CORRECTED FILING RECEIPT

51029
Jay M. Brown
6409 Fayetteville Road
Suite 120-306
Durham, NC 27713

OC000000043688403

Date Mailed: 09/23/2010

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

Applicant(s)

Robert L. Willett, Warren, NJ;
Kirk W. Baldwin, Springfield, NJ;
Loren N. Pfeiffer, Harding Township, NJ;

Assignment For Published Patent Application

Lucent Technologies, Inc., Murray Hill, NJ

Power of Attorney: The patent practitioners associated with Customer Number 51029

Domestic Priority data as claimed by applicant

This application is a DIV of 11/119,519 04/30/2005 PAT 7,341,692

Foreign Applications

If Required, Foreign Filing License Granted: 01/25/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/004,628**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Detection apparatus for biological materials and methods of making and using the same

Preliminary Class

506

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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NELSON MULLINS RILEY & SCARBOROUGH LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON, MA 02109

MAILED
MAY 18 2011
OFFICE OF PETITIONS

In re Application of	:	
Fatemeh MOJTABI	:	
Application No. 12/004,640	:	DECISION ON PETITION TO
Filed: December 21, 2007	:	WITHDRAW FROM RECORD
Attorney Docket No. **FMI-003CPCN**	:	

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

The request is **APPROVED**.

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

The request was signed by Amy E. Mandragouras on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the sole named signing inventor at the address below until otherwise properly notified by the applicant.

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

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

cc: **FATEMEH MOJTABAI**
98 JERICHO ROAD
WESTON, MA 02493

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.
12/004,681	12/21/2007	Rodolfo Diaz	22193-0050001 / M6-146P	2710

7590 01/13/2011
FISH & RICHARDSON P.C. (SD)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
PHAN, THO GIA

ART UNIT	PAPER NUMBER
2821	

NOTIFICATION DATE	DELIVERY MODE
01/13/2011	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

January 11, 2011

FISH & RICHARDSON P.C. (SD)
P.O. BOX 1022
MINNEAPOLIS MN 55440-10

In re Application of	:	
Diaz, Rodolfo et al	:	**DECISION ON PETITION**
Application No.12/004,681	:	
Filed: 12/21/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 22193-00500001	:	***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 21, 2007.

The petition is **GRANTED**.

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

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

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

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

/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
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FRANK L. KUBLER
13261 S.W. 54TH COURT
MIRAMAR, FL 33027

MAILED
SEP 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Irina Iosilevich	:	
Application No. 12/004,690	:	DECISION ON PETITION
Filed: December 21, 2007	:	
Attorney Docket No.	:	

This is a decision on the petitions, filed August 31, 2011, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment and under 37 CFR 1.137(b), to revive the above-identified application.

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

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed July 21, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). Three month (3) extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on November 22, 2010.

A response to the Restriction Requirement was received on December 8, 2010.

Applicant states "The required extension of time required was miscalculated, and we see now that a four month extension of time was needed."

35 U.S.C. 133 Time for prosecuting application states "Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable." It is the applicant's responsibility to either timely traverse or comply with the requirement. See 37 CFR 1.135.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $310 extension of time submitted with the petition on August 31, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's credit card.

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

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

This matter is being referred to Technology Center AU 3776 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Darren Gold
Hitachi Global Storage Technologies
Intellectual Property Law
3403 Yerba Buena Road
San Jose CA 95195

MAILED

MAR 07 2012

OFFICE OF PETITIONS

In re Application of	:	
Guo et al.	:	
Application No. 12/004,728	:	
Filed: December 21, 2007	:	DECISION ON PETITION
Attorney Docket No.	:	UNDER 37 C.F.R. § 1.137(B)
HSJ920040267US2	:	
Title: LUBRICANT WITH NON-	:	
TERMINAL FUNCTIONAL GROUPS	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed January 30, 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 January 31, 2011, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were requested, and no response was received. Accordingly, the above-identified application became abandoned on May 1, 2011. A notice of abandonment was mailed on November 9, 2011.

On January 30, 2012, Petitioner filed a RCE along with the associated fee, remarks, the petition fee, and the proper statement of unintentional delay.

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 remarks submitted on January 30, 2012 - can be processed in due course.

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

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

Paul Shanoski
Senior Attorney
Office of Petitions

1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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	12004858
Filing Date	21-Dec-2007
First Named Inventor	Anthony Schmidt
Attorney Docket Number	092
Title	System and method for recommending personalized gift

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	/Scott R. Brown/
Name	Scott R. Brown
Registration Number	40535

UNITED STATES 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 29, 2012
In re Application of Anthony Schmidt
Application No. 12004858
Filed: 21-Dec-2007

DECISION ON PETITION
UNDER CFR 1.137(b)

Attorney Docket No. 092

This is an electronic decision on the petition under 37 CFR 1.137(b), February 29, 2012 , to revive the above-identified application.

The petition is **GRANTED**.

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

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

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

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

This application file is being directed to the Technology Center.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 7,777,369 B2
Ser. No. : 12/004,864
Inventor(s) : Spears et al.
Issued : Aug. 17, 2010
Title : APPARATUS, SYSTEM AND METHODS FOR ENABLING LINEARITY IMPROVEMENT IN VOLTAGE CONTROLLED VARIABLE CAPACITORS
Docket No. : 10209-0033
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:

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OFFICE OF PETITIONS

In re Application of :
Christiansen, et al. :
Application No. 12/004,898 : DECISION
Filed/Deposited: 21 December, 2007 :
Attorney Docket No. 31177-00004 :

This is a decision on the papers filed on 11 July, 2011, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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 non-final Office action mailed on 22 July, 2009, with reply due absent extension of time on or before 22 October, 2009.

The application went abandoned by operation of law after midnight 22 October, 2009.

The Office mailed the Notice of Abandonment on 25 February, 2010.

On 5 March, 2010, Petitioner appeared to have filed a reply to the 22 July, 2009, Office action with a request and fee for a two- (2-) month extension of time, and the papers were noted with a certificate of mailing dated 22 December, 2009—however, Petitioner filed no other papers at that time and—in particular—no request to withdraw the holding of abandonment and/or an express statement that the papers submitted were previously filed, and there was no copy of a date-stamped receipt card.

On 11 July, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 averring timely reply to the non-final Office action and non-receipt of the Notice of Abandonment. In light of the history outlined above, however, there is an indication of record that Notice of Abandonment may well have been received, but not noted/calendared/docketed for a timely and proper petition to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181. Thus, it does not appear as of this writing that Petitioner has satisfied the showing required under the Rule, *inter alia*, as to timeliness, and Petitioner may not be able to do so.

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:

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> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely fling:

***

> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing

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[1] *See*: MPEP §711.03(c) (I)(A).

(i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [2]

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As noted above, 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):

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C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. §1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. §1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. §1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

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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

[2] *See*: MPEP §711.03(c) (I)(B).

> 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) (***).
>
> ***

A Petitioner unable to comply with and/or otherwise satisfy these requirements may wish to revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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

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[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18 (formerly 37 C.F.R. §10.18) to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[4],[5]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[6]

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

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[4] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[5] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[6] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

As discussed above, Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner pursuant to 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Petitioner is cautioned that the failure to file timely a petition pursuant to 37 C.F.R. §1.137(b) seeking to revive an application abandoned due to unintentional delay may be considered *indicia* of delay that is other than unintentional.

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

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

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

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

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

[7] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of	:	
Christiansen, et al.	:	
Application No. 12/004,898	:	DECISION
Filed/Deposited: 21 December, 2007	:	
Attorney Docket No. 31177-00004	:	

This is a decision on the papers filed on 20 September, 2011, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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 non-final Office action mailed on 22 July, 2009, with reply due absent extension of time on or before 22 October, 2009.

The application went abandoned by operation of law after midnight 22 October, 2009.

The Office mailed the Notice of Abandonment on 25 February, 2010.

On 5 March, 2010, Petitioner appeared to have filed a reply to the 22 July, 2009, Office action with a request and fee for a two- (2-) month extension of time, and the papers were noted with a certificate of mailing dated 22 December, 2009—however, Petitioner filed no other papers at that time and—in particular—no request to withdraw the holding of abandonment and/or an express statement that the papers submitted were previously filed, and there was no copy of a date-stamped receipt card.

On 11 July, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 averring timely reply to the non-final Office action and non-receipt of the Notice of Abandonment. In light of the history outlined above, however, there is an indication of record that Notice of Abandonment may well have been received, but not noted/calendared/docketed for a timely and proper petition to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181. Thus, it did not appear that Petitioner had satisfied or could satisfy the showing required under the Rule, and, *inter alia*, as to timeliness, Petitioner was unable to do so. The petition was dismissed on 22 July, 2011.

On 20 September, 2011, Petitioner re-advanced his petition, but again failed to make the showing required in that Petitioner:

- Averred submission of documents as to Petitioner's docket and not as to the firm docket;

- Failed to explain his office's election to mail for the first time or re-mail for submission to the Office on 5 March, 2011, the reply due to the 22 July, 2009, non-final Office action—and do so in following the mailing by the Office of the Notice of Abandonment on 25 February, 2010—yet Petitioner failed at that time to properly and timely submit a petition pursuant to 37 C.F.R. §1.181;

- As one registered to practice before the Office is well aware that:

  —All practice before the Office is in writing, nonetheless Petitioner avers as to conversations supposedly held with an Examiner and/or other Office personnel; and

—Each application is a separate matter, nonetheless Petitioner avers as to events that were supposed to have happened and/or not happened in other applications.

- Averred that Petitioner's failure to submit timely and properly a reply to the 22 July, 2009, Office action was the failure of the U.S. Postal Service and/or the Office—notwithstanding Petitioner's failure to:

  —Rreceive or even note non-receipt of a date stamped receipt card which he averred accompanied an amendment in December 2009; and

  —Failure to note or otherwise observe that there was charge to his deposit account in December 2009 despite his averred authorization of same.

The record simply is not consistent with Petitioner's view of events. As a result,Petitioner appears unable to satisfy the showing or timeliness requirements under the Rule, nonetheless Petitioner appears insistent on pursuing a withdrawal of the holding of abandonment. Petitioner is cautioned that a failure to timely file a petition pursuant to 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay (petition, fee, reply, statement of unintentional delay and, where required, terminal disclaimer and fee).

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to non-receipt:

***

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

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

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no

> such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]
>
> ***

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely fling:

> ***
>
> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered

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[1] *See*: MPEP §711.03(c) (I)(A).

into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [2]

***

As noted above, Petitioner's reply to the Notice of Abandonment is late under the rule (37 C.F.R. §1.181), and Petitioner is reminded of the guidance set forth in the Commentary at MPEP §711.03(c) (in pertinent part):

***

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. §1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. §1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. §1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

***

3. Utility and Plant Applications Filed on or After May 29, 2000

In utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should **not** be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically reduced under the provisions of 37 C.F.R. §1.704(c)(4) in applications subject to the patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, and if applicant does not receive the notice of abandonment, any patent term adjustment is reduced under the provisions of 37

[2] *See*: MPEP §711.03(c) (I)(B).

> 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) (***).
>
> ***

A Petitioner unable to comply with and/or otherwise satisfy these requirements may wish to revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18 (formerly 37 C.F.R. §10.18) to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[4],[5]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[6]

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

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[4] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[5] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[6] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

As discussed above, Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner pursuant to 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Petitioner is cautioned that the failure to file timely a petition pursuant to 37 C.F.R. §1.137(b) seeking to revive an application abandoned due to unintentional delay may be considered *indicia* of delay that is other than unintentional.

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

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

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

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

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

[7] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MCDONALD HOPKINS LLC
600 SUPERIOR AVENUE, EAST
SUITE 2100
CLEVELAND OH 44114-2653

MAILED

DEC 19 2011

OFFICE OF PETITIONS

In re Application of	:	
Christiansen, et al.	:	
Application No. 12/004,898	:	DECISION
Filed/Deposited: 21 December, 2007	:	
Attorney Docket No. 31177-00004	:	

This is a decision on the papers filed on 7 November, 2011, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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 non-final Office action mailed on 22 July, 2009, with reply due absent extension of time on or before 22 October, 2009.

The application went abandoned by operation of law after midnight 22 October, 2009.

The Office mailed the Notice of Abandonment on 25 February, 2010.

On 5 March, 2010, Petitioner appeared to have filed a reply to the 22 July, 2009, Office action with a request and fee for a two- (2-) month extension of time, and the papers were noted with a certificate of mailing dated 22 December, 2009—however, Petitioner filed no other papers at that time and—in particular—no request to withdraw the holding of abandonment and/or an express statement that the papers submitted were previously filed, and there was no copy of a date-stamped receipt card.

On 11 July, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 averring timely reply to the non-final Office action and non-receipt of the Notice of Abandonment. In light of the history outlined above, however, there is an indication of record that Notice of Abandonment may well have been received, but not noted/calendared/docketed for a timely and proper petition to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181. Thus, it did not appear that Petitioner had satisfied or could satisfy the showing required under the Rule, and, *inter alia*, as to timeliness, Petitioner was unable to do so. The petition was dismissed on 22 July, 2011.

On 20 September, 2011, Petitioner re-advanced his petition, but again failed to make the showing required in that Petitioner:

- Averred submission of documents as to Petitioner's docket and not as to the firm docket;

- Failed to explain his office's election to mail for the first time or re-mail for submission to the Office on 5 March, 2011, the reply due to the 22 July, 2009, non-final Office action—and do so in following the mailing by the Office of the Notice of Abandonment on 25 February, 2010—yet Petitioner failed at that time to properly and timely submit a petition pursuant to 37 C.F.R. §1.181;

- As one registered to practice before the Office is well aware that:

  —All practice before the Office is in writing, nonetheless Petitioner avers as to conversations supposedly held with an Examiner and/or other Office personnel; and

—Each application is a separate matter, nonetheless Petitioner avers as to events that were supposed to have happened and/or not happened in other applications.

- Averred that Petitioner's failure to submit timely and properly a reply to the 22 July, 2009, Office action was the failure of the U.S. Postal Service and/or the Office—notwithstanding Petitioner's failure to:

  —Rreceive or even note non-receipt of a date stamped receipt card which he averred accompanied an amendment in December 2009; and

  —Failure to note or otherwise observe that there was charge to his deposit account in December 2009 despite his averred authorization of same.

The record was not consistent with Petitioner's view of events; Petitioner appeared unable to satisfy the requirements (including timeliness) under the Rule; and the petition was dismissed on 26 September, 2011.

On 7 November, 2011, Petitioner re-advanced his petition with the same showings as before and no apparent ability to overcome the untimeliness problem confronting his submission. Petitioner has failed to satisfy the showing and timeliness requirements pursuant to 37 C.F.R. §1.181 and the guidance in the Commentary at MPEP §711.03(c)(I). Petitioner is cautioned that a failure to timely file a petition pursuant to 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay (petition, fee, reply, statement of unintentional delay and, where required, terminal disclaimer and fee).

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to non-receipt:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely fling:

***

> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing

[1] *See*: MPEP §711.03(c) (I)(A).

(i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [2]

***

As noted above, Petitioner's reply to the Notice of Abandonment is late under the rule (37 C.F.R. §1.181), and Petitioner is reminded of the guidance set forth in the Commentary at MPEP §711.03(c) (in pertinent part):

***

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. §1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. §1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. §1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

***

3. Utility and Plant Applications Filed on or After May 29, 2000

In utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should **not** be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically

[2] *See*: MPEP §711.03(c) (I)(B).

> 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) (***).
>
> ***

A Petitioner unable to comply with and/or otherwise satisfy these requirements may wish to revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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

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[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18 (formerly 37 C.F.R. §10.18) to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[4],[5]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[6]

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

---

[4] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

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As discussed above, Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner pursuant to 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Petitioner is cautioned that the failure to file timely a petition pursuant to 37 C.F.R. §1.137(b) seeking to revive an application abandoned due to unintentional delay may be considered *indicia* of delay that is other than unintentional.

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

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Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
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/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[7] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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NEW YORK, NY 10036-6569

MAILED
JUN 29 2011
OFFICE OF PETITIONS

In re Application of Kornel :
Application No. 12/004,954 : Decision on Petition
Filing Date: December 21, 2007 :
Attorney Docket No. 13118.00004 :

This is a decision on the petition under 37 CFR 1.137(b) filed June 15, 2011, which requests revival of the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action including a requirement for restriction/election mailed December 9, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on Tuesday, January 11, 2011. A Notice of Abandonment was mailed June 20, 2011.

The instant petition requests revival of the application.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee, and
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.[1]

The petition satisfies the requirements of 37 CFR 1.137(b) in so far as petitioner has supplied (1) a reply in the form of an election, (2) the required petition fee of $810, and (3) the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

[1] A terminal disclaimer is also necessary if the application is a design application or if the application was filed on or before June 8, 1995.

Technology Center Art Unit 3733 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Arthur M. Dula
3106 Beauchamp St.
Houston TX 77009

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MAR 05 2012
OFFICE OF PETITIONS

In re Application of	:	
Kane	:	
Application No. 12/004,973	:	DECISION ON PETITION
Filed: December 24, 2007	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. KANE-US-TAXI	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 6, 2012, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment and application data sheet (ADS).

The petition is **GRANTED.**

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

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

The petition is granted based on the reference provided in the ADS, not the amendment. The amendment is not acceptable because it does not list the provisional application's filing date and petitioner does not identify where the amendment should be inserted in the specification. Petitioner should file another amendment correcting these matters.

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3628 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application, as found in the ADS filed on February 6, 2012.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
12/004,973	12/24/2007	3628	1845	KANE-US-TAXI	69	4

CONFIRMATION NO. 1499

CORRECTED FILING RECEIPT

Arthur M. Dula
3106 Beauchamp St.
Houston, TX 77009

OC000000052909920

Date Mailed: 03/02/2012

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)

Richard Kane, Lake Worth, FL;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/871,759 12/22/2006

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

If Required, Foreign Filing License Granted: 01/30/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/004,973**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Air taxi logistics system

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 11, 2011

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction for Appl. No. 12/005056 patent No.:7859134

C of C mailroom date:--05-6-11

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

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

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

Magdalene Talley

Certificates of Correction Branch

571-272- 0423

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The formal drawings filed with the request for certificate of correction on 05/06/2011 are approved.

/Jared Fureman/ — **SPE**

2836 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONES DAY
555 SOUTH FLOWER STREET FIFTIETH FLOOR
LOS ANGELES CA 90071

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of	:	
James R. Fenton	:	
Application No. 12/005,131	:	DECISION ON PETITION
Filed: December 21, 2007	:	TO WITHDRAW
Attorney Docket No. 995724-100007	:	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 7, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Theodore Maceiko on behalf of all attorneys/agents associated with customer number 34026. All attorneys/agents associated with customer number 34026 have been withdrawn.

All future correspondence will be directed to the address of record, which 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: James R. Fenton
2361 Rosecrans Avenue
Suite 356
El Segundo, CA 90245

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
12/005,131	12/21/2007	James R. Fenton	995724-100007

CONFIRMATION NO. 1699

POWER OF ATTORNEY NOTICE

34026
JONES DAY
555 SOUTH FLOWER STREET FIFTIETH FLOOR
LOS ANGELES, CA 90071

OC000000046195187

Date Mailed: 02/25/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/07/2011.

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

MAILED
MAR 16 2011
OFFICE OF PETITIONS

In re Application of	:	
Jung et al.	:	DECISION ON PETITION
Application No. 12/005,162	:	TO WITHDRAW
Filed: December 21, 2007	:	FROM RECORD
Attorney Docket No. QQ1 - 0082US	:	

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

The request is **NOT APPROVED**.

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

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

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. The Customer Number 55922 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71 As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, there is an outstanding Office action mailed December 9, 2010 that requires a reply.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WHITAKER CHALK SWINDLE & SCHWARTZ PLLC
301 COMMERCE STREET
Suite 3500
FORT WORTH TX 76102-4186

MAILED

MAR 07 2012

OFFICE OF PETITIONS

In re Application of	:	
Ferguson	:	
Application No. 12/005,181	:	DECISION ON PETITION
Filed: December 26, 2007	:	PURSUANT TO
Attorney Docket No.	:	37 C.F.R. § 1.137(B)
20514.097	:	
Title: INWARDLY FIRING	:	
BURNER AND USES THEREOF	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed February 8, 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 in a timely manner to a non-final Office action, mailed August 2, 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 November 3, 2011. A notice of abandonment was mailed on February 15, 2012, subsequent to the filing of this petition.

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

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

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

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

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

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on February 8, 2012 can be processed in due course.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning this application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MURAMATSU & ASSOCIATES
Suite 310
114 Pacifica
Irvine CA 92618

NOV 29 2011

In re Application of
TOKURA, KENJI :
Application No. 12/005,214 :
Filed: December 26, 2007 :
Attorney Docket No.: NEURON.005CP1 :

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 October 11, 2011.

The petition is **GRANTED**.

The application was held abandoned for failure to timely pay the issue fee as required by the Notice of Allowance and Fee(s) Due mailed May 12, 2011, which set forth a three (3) month statutory period for reply. Accordingly, the Notice of Abandonment was mailed on August 25, 2011.

Petitioner states that the issue fee transmittal and payment were timely filed via the USPTO on August 12, 2011. Petitioner submitted a copy of the original submission which included a properly completed Certificate of Mailing/Transmission.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquires concerning this decision be directed to the undersigned in the Office of Patent Publication at 703-756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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.
12/005,219	12/26/2007	Donald G. Chamberlain	Geo-X015.01	3611

7590 08/11/2010
W. ALLEN MARCONTELL
P.O. BOX 800149
HOUSTON, TX 77280-0149

EXAMINER
MURPHY, DANIEL L

ART UNIT	PAPER NUMBER
3663	

MAIL DATE	DELIVERY MODE
08/11/2010	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Mimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref: 3035397153
08/11/2010

Credit Card Refund Total: $255.00

Adjustment date: 08/11/2010 NFARMER
12/28/2007 EAYALEWI 00000056 12005219
02 FC:2111 -255.00 OP

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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Intellectual Property Law Office of David Lathrop
No. 827
39120 Argonaut Way
Fremont CA 94538

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Patent No. 7,659,652 :
Issue Date: February 9, 2010 :
Application No. 12/005,222 : DECISION ON PETITION
Filed: December 26, 2007 :
Attorney Docket No. NAA263 :

This is a decision on the Petition To Change Name of Assignee After Payment Of Issue Fee, filed March 24, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name. The Request is being treated as a Petition Under 37 CFR §3.81(b). A completed Certificate of Correction Form (PTO/SB/44) was previously submitted.

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

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

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

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

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) previously submitted.

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

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (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. 7,659,652.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 4, 2011

TO SPE OF : ART UNIT 2432

SUBJECT : Request for Certificate of Correction for Appl. No. 12/005230 patent No.:7770017 B2

C of C mailroom date:--02-13-11

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: ALL Changes are approved

/Gilberto Barron Jr/ — **SPE**

2432 — **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

LADAS & PARRY LLP
1040 Avenue of the Americas
NEW YORK NY 10018-3738

MAILED
AUG 09 2011
OFFICE OF PETITIONS

Applicant: Pasino
Appl. No.: 12/005,418
Filing Date: December 26, 2007
Title: Annular Sealing Assembly For Insertion Between Two Mechanical Members In Relative Motion, In Particular A Linear Reciprocating Motion, As A Rod And The Relative Guiding Seat Of A Mono-Tube Shock-Absorber
Attorney Docket No.: U 017143-7
Pub. No.: US 2008/0221839 A1
Pub. Date: September 11, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 3, 2010, for the above-identified application.

The request is dismissed.

Applicant request that the application be republished because the patent application publication contains materials error in that the publication includes the wrong specification, drawings and abstract.

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

The request for corrected publication, received on May 3, 2010, was not timely filed under 37 CFR 1.221(b).

It is noted that the instant application and the application papers which were published were mailed to the Office in the same Express Mail envelope.

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

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

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

http://www.uspto.gov/patents/process/file/efs/guidance/index.jsp
OR
http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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LADAS & PARRY LLP
1040 AVENUE OF THE AMERICAS
NEW YORK NY 10018-3738

MAILED
DEC 02 2011
OFFICE OF PETITIONS

Applicant: Roberto Pasino
Appl. No.: 12/005,418
Filing Date: December 26, 2007
Title: ANNULAR SEALING ASSEMBLY FOR INSERTION BETWEEN TWO MECHANICAL MEMBERS IN RELATIVE MOTION, IN PARTICULAR A LINEAR RECIPROCATING MOTION, AS A ROD AND THE RELATIVE GUIDING SEAT OF A MONO-TUBE SHOCK-ABSORBER
Attorney Docket No.: U 017143-7
Pub. No.: US 20080221839 A1
Pub. Date: September 11, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 31, 2011, for the above-identified application.

The request is DISMISSED as moot.

Applicant requests that the application be republished because the patent application publication contains an error wherein an incorrect specification, claims, abstract and drawings were published on September 11, 2008, for the above-identified application.

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

The request under 37 CFR 1.221(b) is untimely, as it is not filed within two months of September 11, 2008, the date of the patent application publication.

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

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

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

http://www.uspto.gov/patents/process/file/efs/guidance/index.jsp
OR
http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication." The request filed August 31, 2011, if considered under 37 CFR 1.221(a), was not filed consistent with the requirements discussed in the links above.

Inquiries relating to this matter may be directed to Karen Creasy at (571) 272-3208.

/Christopher Bottorff/

Christopher Bottorff
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.
12/005,418	12/26/2007	Roberto Pasino	U 017143-7	2926

140 7590 02/03/2012
LADAS & PARRY LLP
1040 Avenue of the Americas
NEW YORK, NY 10018-3738

EXAMINER
SY, MARIANO ONG

ART UNIT	PAPER NUMBER
3657	

NOTIFICATION DATE	DELIVERY MODE
02/03/2012	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):

nyuspatactions@ladas.com
nymail@ladas.com

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LADAS & PARRY LLP
1040 Avenue of the Americas
NEW YORK NY 10018-3738

Applicant: Pasino
Appl. No.: 12/005,418
Filing Date: December 26, 2007
Title: ANNULAR SEALING ASSEMBLY FOR INSERTION BETWEEN TWO MECHANICAL MEMBERS IN RELATIVE MOTION, IN PARTICULAR A LINEAR RECIPROCATING MOTION, AS A ROD AND THE RELATIVE GUIDING SEAT OF A MONO-TUBE SHOCK-ABSORBER
Attorney Docket No.: U 017143-7
Pub. No.: US 2008/0221839 A1
Pub. Date: September 11, 2008

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on January 27, 2012, 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: 02/03/2012 KKING1
01/27/2012 INTEFSW 00009841 120425 12005418
01 FC:1504 300.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7749644
Ser. No. : 12/005428
Inventor(s) : Haruchika NISHINO
Issued : 07/06/2010
Title : STRUCTURE FOR MOUNTING BATTERIES ONTO ELECTRIC VEHICLES
Docket No. : 1602-0224PUS1

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.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates
of Correction Branch
(703) 756-1593 or (703) 756-1814
Date: 8/12/2010

Address: Charles Gorenstein
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road, Suite 100 East
P. O. Box 747
Falls Church, VA 22040-0747

ts/md

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OFFICE OF PETITIONS

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

In re Patent No. 7,749,644	:	
Issue Date: July 6, 2010	:	
Application No. 12/005,428	:	ON PETITION
Filed: December 27, 2007	:	
Attorney Docket No. 1602-0224PUS1	:	

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

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "**Mitsubishi Jidosha Koygo Kabushiki Kaisha,** Tokyo (JP); **Mitsubishi Jidosha Engineering Kabushiki Kaisha, Okazaki-shi** (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 [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment to "MITSUBISHI JIDOSHA **KOGYO** KABUSHIKI KAISHA and MITSUBISHI JIDOSHA ENGINEERING KABUSHIKI KAISHA." was recorded on March 12, 2008. Accordingly, issuance of a certificate of correction would not be proper for "**Mitsubishi Jidosha Koygo**

Kabushiki Kaisha, Tokyo (JP); **Mitsubishi Jidosha Engineering Kabushiki Kaisha, Okazaki-shi** (JP).

The assignment was recorded with the spelling of part of the assignee's name as **KOGYO** and not **KOYGO** as indicated on the certificate of correction submitted with the above petition on September 1, 2010.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

APR 25 2011

OFFICE OF PETITIONS

In re Application of	:	
Lutz-Henning Block	:	
Application No. 12/005,479	:	DECISION ON PETITION
Filed: December 27, 2007	:	TO WITHDRAW
Attorney Docket No. 080618-0748	:	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 10, 2011.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Kristel Schorr, on behalf of all attorneys/agents associated with customer number 22428. All attorneys/agents associated with customer number 22428 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: Mondobiotech AG
Murgstrasse 18
Stans, Switzerland 6371

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
12/005,479	12/27/2007	Lutz-Henning Block	080618-0748

CONFIRMATION NO. 3808

POWER OF ATTORNEY NOTICE

22428
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

OC000000047275184

Date Mailed: 04/21/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/10/2011.

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

/kainabinet/

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

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

APR 25 2011

OFFICE OF PETITIONS

In re Application of	:	
Lutz-Henning Block	:	
Application No. 12/005,516	:	DECISION ON PETITION
Filed: December 27, 2007	:	TO WITHDRAW
Attorney Docket No. 080618-0749	:	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 10, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Kristel Schorr, on behalf of all attorneys/agents associated with customer number 22428. All attorneys/agents associated with customer number 22428 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: Mondobiotech AG
Murgstrasse 18
Stans, Switzerland 6371

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
12/005,516	12/27/2007	Lutz-Henning Block	080618-0749

CONFIRMATION NO. 3440

POWER OF ATTORNEY NOTICE

22428
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

OC000000047354540

Date Mailed: 04/26/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/10/2011.

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

/kainabinet/

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

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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

MAILED
AUG 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Yu Iwai	:	
Application No.: 12/005,549	:	ON PETITION
Filed: December 26, 2007	:	
Attorney Docket No.: 7991-80181-01	:	

This is a decision on the petition, filed August 23, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 3, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 3729 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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MELVIN S. ROSH
150 E. 93 STREET
APT. 8-C
NEW YORK, NY 10128

MAILED
NOV 26 2010
OFFICE OF PETITIONS

In re Application of :
Melvin S. Rosh :
Application No. 12/005,605 : ON PETITION
Filed: December 28, 2007 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed July 27, 2010, to revive the above-identified application.

The petition is **DISMISSED.**

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

The petitioner states "Since rebuttal letters were sent to you at the appropriate times, it shows that there was no abandonment on my part. I even asked that the patent application be transferred to another agent, who I was hopeful would be more objective."

35 U.S.C. 133 Time for prosecuting application states "Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable."

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

As to item (1), 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 16, 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 (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

As to item (2), the petition under 37 CFR 1.137(b) is $810 (Small Entity). This petition can not be treated until the $810 petition fee is received.

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

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

By hand: Customer Service Window
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) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 12/005,605	Applicant(s) ROSH, MELVIN S.	
	Examiner DOLORES COLLINS	Art Unit 3711	

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

THE REPLY FILED 03 May 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   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: See Continuation Sheet.

/ALVIN A HUNTER/
Primary Examiner, Art Unit 3711

Continuation of 13. Other: Applicant has apparatus claims but argues a method of use. An examination on the merits was performed base on his claims being apparatus claims. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.
Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections..

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United States Patent and Trademark Office
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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

MAILED

DEC 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Getin et al.	:	DECISION ON PETITION
Application No. 12/005,652	:	TO WITHDRAW
Filed: December 27, 2007	:	FROM RECORD
Attorney Docket No. 3174.1004-017	:	

This is a decision on the Requests to Withdraw as Attorney or Agent of Record under 37 C.F.R. § 1.36(b), filed November 10, 2010 and November 24, 2010.

The request is **NOT APPROVED**.

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

The Office will not change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). This includes address changes to law firms, where no new power of attorney has been filed in the application. If the applicants wish future correspondence to be mailed to a new law firm, a new power of attorney should be submitted in the application and should include the desired change of correspondence address. Accordingly, as the Request to Withdraw specified a law firm as the new correspondence address of record, the request cannot be granted at this time.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There is an outstanding Office action, mailed September 2, 2010, which requires a reply. Failure to timely and properly do so will result in abandonment of the instant application.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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.
12/005,695	12/28/2007	Jason Fredrickson	60544/G468	4900

23363 7590 12/20/2011
CHRISTIE, PARKER & HALE, LLP
PO BOX 29001
Glendale, CA 91209-9001

EXAMINER
DELICH, STEPHANIE ZAGARELLA

ART UNIT	PAPER NUMBER
3623	

MAIL DATE	DELIVERY MODE
12/20/2011	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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DEC 2 0 2011

CHRISTIE, PARKER & HALE, LLP
PO Box 29001
Glendale, CA 91209-9001

In re application of	:	**DECISION ON PETITION**
Jason Fredrickson	:	**TO ACCEPT PHOTOGRAPHS**
Application No. 12/005,695	:	**UNDER 37 C.F.R. SECTION 1.84(b)(1)**
Filed: December 28, 2007	:	
For: WORKFLOW COLLABORATION IN A	:	
FORENSIC INVESTIGATION SYSTEM	:	

This is a decision on the petition filed on April 4, 2008, requesting acceptance of photographs under 37 C.F.R. Section 1.84(b)(1).

The petition to accept photographs is **DENIED**.

The petition requests that the United States Patent and Trademark Office accept photographs in lieu of black and white drawings for Figures 2-9. Applicant states that photographs are necessary because "photographs are the only practical medium for depicting graphical user interface images of FIGS. 2-9".

37 C.F.R Section 1.84, Standards for Drawings, sets forth the following:

> § 1.84 Standards for drawings.
> (b) Photographs .—
> (1) Black and white . Photographs, including photocopies of photographs, are not ordinarily permitted in utility and design patent applications. The Office will accept photographs in utility and design patent applications, however, if photographs are the only practicable medium for illustrating the claimed invention. For example, photographs or photomicrographs of: electrophoresis gels, blots (e.g., immunological, western, Southern, and northern), auto-radiographs, cell cultures (stained and unstained), histological tissue cross sections (stained and unstained), animals, plants, in vivo imaging, thin layer chromatography plates, crystalline structures, and, in a design patent application, ornamental effects, are acceptable. If the subject matter of the application admits of illustration by a drawing, the examiner may require a drawing in place of the photograph. The photographs must be of sufficient quality so that all details in the photographs are reproducible in the printed patent.
> (2) Color photographs . Color photographs will be accepted in utility and design patent applications if the conditions for accepting color drawings and

black and white photographs have been satisfied. See paragraphs (a)(2) and (b)(1) of this section.

In the instant application, Figures 2-9 are depictions of graphical user interfaces. These graphical user interfaces appear to have the ability to be illustrated in an ink drawing. Black and white photographs are not ordinarily permitted and are only accepted in applications in which the invention is not capable of being illustrated in an ink drawing and where it is impossible to present in a drawing what is to be shown. Examples of this include crystalline structures, cell cultures, and electrophoresis gels. The subject matter of the graphical user interfaces of figures 2-9 is not one of the examples set forth in 37 CFR § 1.84 (b)(1), nor is it within the spirit of what is represented by these examples. While Applicant asserts that photographs are the only practical medium for depicting these interfaces, Applicant provides no reasons why photographs are the only practicable medium or why black and white drawings would not suffice.

Therefore, Applicant's submission does not meet all the criteria set out above. Accordingly, the petition is **DENIED**.

Telephone inquiries should be directed to Beth V. Boswell, Supervisory Patent Examiner, at (571) 272-6737.

BVBoswell

Beth V. Boswell
Supervisory Patent Examiner, Art Unit 3623
Patent Technology Center 3600
(571) 272-6737

UNITED STATES PATENT AND TRADEMARK OFFICE

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KLAUS J. BACH & ASSOCIATES
PATENTS AND TRADEMARKS
4407 TWIN OAKS DRIVE
MURRYSVILLE, PA 15668

MAILED

DEC 13 2010

OFFICE OF PETITIONS

In re Application of
Mario Kistner
Application No. 12/005,839
Filed: December 27, 2007
Attorney Docket No. ZN 109

DECISION ON PETITION

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

The petition is **dismissed**.

The above application was held abandoned for failure to timely file a response to the Restriction/Election Requirement mailed December 23, 2009. A Notice of Abandonment was mailed on July 21, 2010.

Petitioner asserts, "that he has personally delivered the response document concerning the present application together with the certified copy of German application 10 2005 030 758.2 to the US Post Office in Murrysville PA 15668 on Jan. 11, 2010, that is timely before the due date of Jan. 23, 2010."

A review of the file record does not include the original response purportedly mailed on January 11, 2010, and since petitioner failed to submit any evidence to show that the documents were actually mailed on January 11, 2010, the present petition cannot be granted at this time. If petitioner has some evidence to show that the response was timely mailed on or before January 23, 2010, that evidence should be submitted in any renewed petition[1].

[1] It is noted that the copy of the response filed with the present petition does not show that the documents were mailed using an itemized postcard receipt, a Certificate of Mailing under 37 CFR 1.8 or the use of the Express Mail service under 37 CFR 1.10.

If petitioner cannot produce the necessary evidence to withdraw the holding of abandonment or simply does not wish to, a petition to revive under 37 CFR 1.137(b) along with the $810 may be filed. 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).

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

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

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

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

The Centralized facsimile number is (571) 273-8300, and documentation to this number should be addressed to the Office of Petitions.

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO. To expedite consideration, petitioner may wish to contact the undersigned once the renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(b) has been filed.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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4407 TWIN OAKS DRIVE
MURRYSVILLE, PA 15668

MAILED

MAR 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Mario Kistner	:	
Application No. 12/005,839	:	DECISION ON PETITION
Filed: December 27, 2007	:	
Attorney Docket No. ZN 109	:	

This is a decision on the petition under 37 CFR 1.137(b) filed January 10, 2011, requesting revival of the above-identified application.

In response to the decision mailed on December 13, 2010, petitioner submits the present petition along with the petition fee of $810.

Since the petition satisfies the requirements of 37 CFR 1.137(b), in that petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is hereby **GRANTED**.

This application file is being referred to Technology Center Art Unit 3724 for review of the response filed with the present petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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L. C. BEGIN & ASSOCIATES, PLLC
PMB 403
510 HIGHLAND AVENUE
MILFORD, MI 48381

MAILED
SEP 27 2010
OFFICE OF PETITIONS

In re Application of Bruce A Stevens Application No. 12/005,856 Filed: December 28, 2007 Attorney Docket No. 5702-01172	: : : : :	DECISION ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees and to submit corrected formal drawings on or before May 18, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed February 18, 2010. Accordingly, the date of abandonment of this application is May 19, 2010.

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

The drawings have been approved by the USPTO draftsperson.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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L. C. BEGIN & ASSOCIATES, PLLC
PMB 403
510 HIGHLAND AVENUE
MILFORD, MI 48381

MAILED
OCT 18 2010
OFFICE OF PETITIONS

In re Application of Bruce A Stevens Application No. 12/005,856 Filed: December 28, 2007 Attorney Docket No. 5702-01172	: : : : :	CORRECTED DECISION ON PETITION

CORRECTED DECISION

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

The petition is **GRANTED**.

This application became abandoned for failure to timely submit corrected formal drawings on or before May 18, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed February 18, 2010. Accordingly, the date of abandonment of this application is May 19, 2010.

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

The drawings have been approved by the USPTO draftsperson.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JAN 06 2011

OFFICE OF PETITIONS

In re Application of :
Kenichiro KOBAYASHI, et *al.* :
Application No. 12/005,924 : DECISION GRANTING PETITION
Filed: December 28, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **S1459.70000US02** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 5, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 21, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2162 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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JUN 06 2011

OFFICE OF PETITIONS

In re Application of
Kobayashi et al.
Application No. 12/005,924
Filed: December 28, 2007
Attorney Dkt No. S1459.70000US02
For: DOCUMENT PROCESSING APPARATUS, DOCUMENT PROCESSING METHOD, DOCUMENT PROCESSING PROGRAM AND RECORDING MEDIUM

DECISION ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due, which was mailed January 20, 2011. The Notice of Allowance and Fee (s) Due and the Notice of Allowability set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on April 21, 2011. A Notice of Abandonment was mailed on May 5, 2011.

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

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

This application is being referred to the Office of Data Management for further processing.

Charlema Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 29, 2011

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction for Appl. No.: 12005927 Patent No.: 7772578

CofC mailroom date: Nov. 5, 2010

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

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

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

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Georgia Y. Epps/ 2878

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12-26-10 Paper No.: _____

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction for Appl. No.: 12/005,928 Patent No.: 7,622,729

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

FOR IFW FILES: Chart Drawing

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

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

FOR PAPER FILES:

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

_____

_____

_____

SPE Georgia Y Epps ART UNIT 2878

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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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

MAILED
AUG 03 2011
OFFICE OF PETITIONS

In re Patent No. 7,951,789	:	
Issue Date: May 31, 2011	:	
Application No. 12/005,937	:	DECISION ON PETITION
Filed: December 27, 2007	:	
Attorney Docket No. 11874-135-999	:	

This is a decision on the Request For Certificate Of Correction Under 37 CFR §1.323, filed June 15, 2011, which is being treated as a Petition Under 37 CFR §3.81(b), to accept the omission of the third 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 accept the omission of the third assignee's name on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner urges that a Certificate of Correction (PTO/SB/44) be issued to add the omitted third assignee's name to the Title Page of the Letters Patent.

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

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

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) submitted with the petition.

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

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (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. 7,951,789.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/005,949	12/28/2007	Jack Nguyen	3800003.00008 / 4905B	5657

77202 7590 01/31/2011
K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego, CA 92130

EXAMINER
WESSENDORF, TERESA D

ART UNIT	PAPER NUMBER
1639	

MAIL DATE	DELIVERY MODE
01/31/2011	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

JAN 3 1 2011

Commissioner for Patents
United States Patent and Trademark Office
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K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego CA 92130

In re Application of:
Nguyen et al.
Serial No.: 12/005,949
Filed: December 28, 2007
Attorney Docket No: **3800003.00008 / 4905B**

: PETITION DECISION

This is in response to the petition filed on January 13, 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 April 28, 2008; August 22, 2008; September 12, 2008; October 8, 2008; July 9, 2009; December 30, 2009; and December 21, 2010 in connection with the above-referenced application and consideration by the Examiner of the documents and information contained therein.

Applicants argue the "Information Disclosure Statements were submitted in connection with the above-captioned application on April 28, 2008; August 22, 2008; September 12, 2008; October 8, 2008; July 9, 2009; December 30, 2009; and December 21, 2010. Each Information Disclosure Statement was prepared in accordance with 37 C.F.R 1.97 and 1.98. As required under 37 C.F.R 1.98, each Information Disclosure Statement contained 1) a list of all patents, publications, applications, or other information submitted for consideration by the Office, including a column that provides a space next to each document to be considered, for the examiner's initials and a heading that clearly indicates that the list is an Information Disclosure Statement; and 2) legible copies of all items listed. The items either were in English or a translation was provided. A copy of the misclassified Information Disclosure Statements filed on April 28, 2008; August 22, 2008; September 12, 2008; October 8, 2008; July 9, 2009; December 30, 2009; and December 21, 2010 is attached.

The submitted Information Disclosure Statement included a tabular Form PTO-1449, which was classified as an "IDS," and a written disclosure of information. In each instance, the written disclosure of information was misclassified in PAIR as a "Transmittal Letter" or "Miscellaneous Incoming Letter" (April 28, 2008, "Transmittal Letter" of 3 pages; August 22, 2008, "Transmittal Letter" of 5 pages; September 12, 2008, "Transmittal Letter" of 5 pages;

October 8, 2008, "Transmittal Letter" of 5 pages; July 9, 2009, "Miscellaneous Incoming Letter" of 5 pages; December 30, 2009, "Transmittal Letter" of 3 pages; and December 21, 2010, "Transmittal Letter" of 2 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 April 28, 2008; August 22, 2008; September 12, 2008; October 8, 2008; July 9, 2009; December 30, 2009; and December 21, 2010.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MURAMATSU & ASSOCIATES
Suite 310
114 Pacifica
Irvine CA 92618

MAY 04 2011

In re Application of
HOSHIZAKI, TAKAYUKI et al. :
Application No.: 12/005,969 : DECISION ON
Filing or 371(c) Date: December 28, 2007 : PETITION
Attorney Docket Number: ALPINE.096AUS :

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on April 19, 2011.

This petition is **GRANTED**.

The application was held abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance, mailed November 8, 2010 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on February 22, 2011.

Petitioner submitted a copy of the transmittal letter which included an itemized list on contents completed Certificate of Mailing/Transmission.

(1) the United States Patent and Trademark Office was promptly informed of the previous timely mailing,

(2) Includes a statement that attests on a personal knowledge basis.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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LAW OFFICE OF JENS E. HOEKENDIJK
P.O. BOX 4787
BURLINGAME CA 94011-4787

MAILED
DEC 14 2011
OFFICE OF PETITIONS

In re Patent No. 8,062,307	:	
Issued: November 22, 2011	:	
Application No. 12/005,989	:	NOTICE
Filed: December 28, 2007	:	
Attorney Docket No. 005-015-C5	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 1, 2011.

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

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

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

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LUMEN PATENT FIRM
350 Cambridge Avenue
Suite 100
PALO ALTO CA 94306

MAILED
AUG 02 2010
OFFICE OF PETITIONS

Applicant: Tatarchenko et al.
Appl. No.: 12/005,998
Filing Date: January 18, 2008
Title: AD-HOC PROXIMITY MULTI-SPEAKER ENTERTAINMENT
Attorney Docket: MOS-101/US
Pub. No.: US 2008/0152165 A1
Pub. Date: June 26, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 29, 2008, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the front page of the publication does not list the correct inventors.

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

The request for corrected publication, received on May 29, 2008, was not timely filed under 37 CFR 1.221(b).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in

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

§ 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The Declaration and Power of Attorney received by the Office on March 10, 2008, which were scanned into this application because the papers included the above identified application number have been relabeled as a miscellaneous incoming letter.

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

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

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

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

Inquiries relating to this matter may be directed to Michael Cygan at (571) 272-7700, or to the undersigned at (571) 272-7709.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YVONNE JETT
#62
19972 STANTON AVE
CASTRO VALLEY CA 94546

MAILED

SEP 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Jett	:	
Application No. 12/006,034	:	DECISION
Filed/Deposited: 31 December, 2007	:	
Attorney Docket No. (None)	:	

This is a decision on the petition filed on 26 July, 2010, improvidently identified as pursuant to "37 C.F.R. §1.81" (sic)—and in any case considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

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

> An earlier decision herein expressly reminded Petitioner that her option is to file immediately a petition to revive pursuant to under 37 C.F.R. §1.137(b), or Petitioner risk her continued refusal to do so as *indicia* of delay that is not unintentional.
>
> Petitioner further is reminded that the record indicates the last attempt by her to address this matter substantively was a petition filed on 22 December, 2009, and that the Office mailed a decision on that petition on 8 March, 2010.

Any further petition to revive 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. §1.181 to Withdraw the Holding of Abandonment." *More properly, Petitioner should file a petition to the Commissioner under 37 C.F.R. §1.137(b)* under 37 C.F.R. §1.181 *requesting revival of an application abandoned due to unintentional delay.*

Application No. 12/006,034

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness and showing requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the non-final Office action mailed on 20 June, 2008, with reply due absent extension of time on or before 20 September, 2008 (or the next business day).

The application went abandoned by operation of law after midnight 20 September, 2008.

Office records reflect that Petitioner filed a reply—untimely—on Tuesday, 23 September, 2008.

The Office mailed the Notice of Abandonment on 18 September, 2009.

On 24 September, 2009, Petitioner filed a paper (one page and a one-page attachment) considered as a petition pursuant to 37 C.F.R. §1.181—and averred that a reply in the form of an amendment was submitted *via* U.S. Postal Service first class mail (Certified (No. 7008 0150 00018068 9618) delivery dated (Monday) 22 September, 2008), without a certificate of mail/transmittal and without any noted linking of papers (*e.g.*, USPS transmittal number) and narration of facts/events, and without a copy of the papers averred to have been submitted. The petition was dismissed on 28 October, 2009.

On 20 November, 2009, Petitioner re-advanced her request to withdraw the holding of abandonment in a one-page paper with a one-page attachment considered *in globo* as a petition pursuant to 37 C.F.R. §1.181. Petitioner asserted that her reply to the 20 June, 2008, non-final Office action—transmitted on a date unstated—was received on 22 September, 2008. As indicated above, the Office record reflects that the reply in question was received in and by the Office on 23 September, 2008. Notably, the reply in question was received without a certificate of mail (37 C.F.R. §1.8), without an Express Mail transmission (37 C.F.R. §1.10), and without a date-stamped receipt card listing ("properly identifies") the papers submitted to and received by the Office (MPEP §503). Thus, Petitioner failed to use even one of those three methods sanctioned by the Office and pursuant to the Rules of Practice (37 C.F.R.). Moreover, as of this writing, Petitioner has failed to provide even a linkage that might tie the paper(s)/reply in question by U.S. Postal Service (USPS) tracking number (set forth above) with a USPS certified mail date-stamped card that Petitioner wishes to be considered. Petitioner states that "Operation of Reason [requires that her petition to withdraw the holding of abandonment] should be granted." Further, she asserts, "I am a *pro se* inventor and I feel that I should have some

consideration for that also." Thus, Petitioner would: on one hand ignore the Rules of Practice but impose some other unstated "Operation of Reason"; and on the other hand provide different sets of compliance rules for different groups of Applicants. Petitioner complained that the Office makes a "highly legalistic review of facts." In fact, the Office only calls upon all Applicants to operate by the same rules—a basic element of fundamental fairness. Petitioner stated, "It is not my fault and I should not be penalized for something that was not untimely." The Office made no determination as to "fault." Rather, the Office provided methodologies for Applicants to ensure that they document and independently confirm their dealings with the Office. Petitioner failed to satisfy the required showing and the petition was dismissed on 14 December, 2009.

On 24 December, 2009, Petitioner resubmitted her petition in the form of the following: "I am filing a renewed petition to withdraw the holding of abandonment for Application No. 12,006,034 (circled, sic). Here is a copy of proof of the date of mailing of my response that was mailed timely. Here is additional proof of Date mailed from post office. YJ" As noted previously, there is absolutely no linkage provided by Petitioner as between the papers untimely filed and the USPS documents (a date-stamped stub and USPS payment receipt).

The Rules of Practice provide protections and benefits for applicants and practitioners (e.g., (37 C.F.R. §1.8 and §1.10 and MPEP §503), however, those protections and benefits are unavailable when Applicants fail to comply with/follow those rules.

On 7 May, 2010, and again on 13 May, 2010, Petitioner requested an extension of time—such extension as may be obtained (up to four (4) months) may be made at the time of the submission of the substantive petition and **must** be accompanied by the appropriate fee therefore (see: http://www.uspto.gov/web/offices/ac/qs/ope/fee2009september15.htm#patapp for the then-current fee schedule). The petition was dismissed on 16 June, 2010.

On 26 July, 2010, Petitioner requested an extension of time. Petitioner is reminded once again that such extension(s) as may be obtained (up to four (4) months) may be made at the time of the submission of the substantive petition and **must** be accompanied by the appropriate fee therefore (see: http://www.uspto.gov/web/offices/ac/qs/ope/fee2009september15.htm#patapp for the then-current fee schedule).

Thus, it appears at this writing that Petitioner has failed to make the showing in compliance with the guidance in the Commentary at MPEP 711.03(c)(I)—set forth below.

Once again, Petitioner's burden is to make a showing pursuant to 37 C.F.R. §1.181 (with narrative and documentary support) consistent with the guidance in the Commentary at MPEP 711.03(c)(I), which provides in pertinent part:

***

> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandon-

ment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]

***

As indicated above, Petitioner failed to satisfy this burden.

[1] *See*: MPEP §711.03(c) (I)(B).

Petitioner failed to satisfy the requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I), which is the requirement for relief pursuant to 37 C.F.R. §1.181.

Petitioner's alternative is to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

Petitioner is cautioned that failure to act promptly in this regard may be considered indicia of delay that is other than unintentional.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

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

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

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.[5]

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how and when it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a statement that "the entire delay in

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and a terminal disclaimer and fee where appropriate.

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[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[6] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Jett	:	
Application No. 12/006,034	:	DECISION
Filed/Deposited: 31 December, 2007	:	
Attorney Docket No. (None)	:	

This is a decision on the petition filed on 25 October, pursuant to "37 C.F.R. §1.81" (sic)—and in any case 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, alternatively a petition pursuant to 37 C.F.R. §1.137(b) to revive an application as having been abandoned due to unintentional delay.

> **NOTE:** While the instant petitions are dismissed, the Office notes that the fee for the petition pursuant to 37 C.F.R. §1.137(b) has been submitted and there appears to be of record a reply (previously submitted on 23 September, 2008).
>
> Therefore, Petitioner now should execute and submit the petition form enclosed herewith—which also includes the required statement of unintentional delay—to complete the petition process pursuant to 37 C.F.R. §1.137(b).

The petition as considered pursuant to 37 C.F.R. §1.181 is **DISMISSED**; the petition pursuant to 37 C.F.R. §1.137(b) is **DISMISSED**.

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

Any further petition to revive 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. §1.181 to Withdraw the Holding of Abandonment." *More properly, Petitioner should file a petition to the Commissioner under 37 C.F.R. §1.137(b)* under 37 C.F.R. §1.181 *requesting revival of an application abandoned due to unintentional delay.*

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness and showing requirements for relief under 37 C.F.R. §1.181.

As to the Allegations
of Unintentional Delay

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

It appears that Petitioner has not satisfied the requirements pursuant to the regulations at 37 C.F.R. §1.137(b).

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the non-final Office action mailed on 20 June, 2008, with reply due absent extension of time on or before 20 September, 2008 (or the next business day).

The application went abandoned by operation of law after midnight 20 September, 2008.

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On 24 September, 2009, Petitioner filed a paper (one page and a one-page attachment) considered as a petition pursuant to 37 C.F.R. §1.181—and averred that a reply in the form of an amendment was submitted *via* U.S. Postal Service first class mail (Certified (No. 7008 0150 00018068 9618) delivery dated (Monday) 22 September, 2008), without a certificate of mail/transmittal and without any noted linking of papers (*e.g.*, USPS transmittal number) and narration of facts/events, and without a copy of the papers averred to have been submitted. The petition was dismissed on 28 October, 2009.

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On 24 December, 2009, Petitioner resubmitted her petition in the form of the following: "I am filing a renewed petition to withdraw the holding of abandonment for Application No. 12,006,034 (circled, sic). Here is a copy of proof of the date of mailing of my response that was mailed timely. Here is additional proof of Date mailed from post office. YJ" As noted previously, there is absolutely no linkage provided by Petitioner as between the papers untimely filed and the USPS documents (a date-stamped stub and USPS payment receipt).

The Rules of Practice provide protections and benefits for applicants and practitioners (e.g., (37 C.F.R. §1.8 and §1.10 and MPEP §503), however, those protections and benefits are unavailable when Applicants fail to comply with/follow those rules.

On 7 May, 2010, and again on 13 May, 2010, Petitioner requested an extension of time—such extension as may be obtained (up to four (4) months) may be made at the time of the submission of the substantive petition and **must** be accompanied by the appropriate fee therefore (see: http://www.uspto.gov/web/offices/ac/qs/ope/fee2009september15.htm#patapp for the then-current fee schedule). The petition was dismissed on 16 June, 2010.

On 26 July, 2010, Petitioner requested an extension of time. Petitioner is reminded once again that such extension(s) as may be obtained (up to four (4) months) may be made at the time of the

submission of the substantive petition and **must** be accompanied by the appropriate fee therefore (see: http://www.uspto.gov/web/offices/ac/qs/ope/fee2009september15.htm#patapp for the then-current fee schedule). The petition was dismissed on 21 September, 2010.

On 25 October, 2010, Petitioner submitted a one- (1-) page paper in an apparent effort to re-advance her petition pursuant to 37 C.F.R. §1.181 and to indicate an intention to file a petition pursuant to 37 C.F.R. §1.137(b)—and Petitioner included the required petition fee and appears to point to the reply previously submitted on 23 September, 2008. Missing at this writing is the petition (form) and statement of unintentional delay (included in the petition form). A copy of the form is enclosed with this decision for Petitioner's completion and submission.

Thus, it appears at this writing that Petitioner has failed to make the showing in compliance with the guidance in the Commentary at MPEP 711.03(c)(I)—set forth below—and the guidance in the Commentary at MPEP 711.03(c)(II).

Once again, Petitioner's burden is to make a showing pursuant to 37 C.F.R. §1.181 (with narrative and documentary support) consistent with the guidance in the Commentary at MPEP 711.03(c)(I), which provides in pertinent part:

***

> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing

(i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]

***

As indicated above, Petitioner failed to satisfy this burden.

Petitioner failed to satisfy the requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I), which is the requirement for relief pursuant to 37 C.F.R. §1.181.

Petitioner's alternative is to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

Petitioner is cautioned that failure to act promptly in this regard may be considered indicia of delay that is other than unintentional.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

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[1] *See*: MPEP §711.03(c) (I)(B).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 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).

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

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

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[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

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 and when it is to be made and supported.

Petitioner appears not to have made the showing required.

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 not been satisfied.

CONCLUSION

Accordingly, the petition as considered pursuant to 37 C.F.R. §1.181 is **dismissed**; the petition as considered pursuant to 37 C.F.R. §1.137(b) is **dismissed**.

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YVONNE JETT
#62
19972 STANTON AVE
CASTRO VALLEY CA 94546

MAILED
MAY 27 2011
OFFICE OF PETITIONS

In re Application of	:	
Jett	:	
Application No. 12/006,034	:	DECISION
Filed/Deposited: 31 December, 2007	:	
Attorney Docket No. (None)	:	

This is a decision on the petition filed on 25 January, 2011, pursuant to 37 C.F.R. §1.137(b) to revive an application as having been abandoned due to unintentional delay.

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

As to the Allegations
of Unintentional Delay

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

A Petitioner's attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the non-final Office action mailed on 20 June, 2008, with reply due absent extension of time on or before 20 September, 2008 (or the next business day).

The application went abandoned by operation of law after midnight 20 September, 2008.

Office records reflect that Petitioner filed a reply—untimely—on Tuesday, 23 September, 2008.

The Office mailed the Notice of Abandonment on 18 September, 2009.

On 24 September, 2009, Petitioner filed a paper (one page and a one-page attachment) considered as a petition pursuant to 37 C.F.R. §1.181—and averred that a reply in the form of an amendment was submitted *via* U.S. Postal Service first class mail (Certified (No. 7008 0150 00018068 9618) delivery dated (Monday) 22 September, 2008), without a certificate of mail/transmittal and without any noted linking of papers (*e.g.*, USPS transmittal number) and narration of facts/events, and without a copy of the papers averred to have been submitted. The petition was dismissed on 28 October, 2009.

On 20 November, 2009, Petitioner re-advanced her request to withdraw the holding of abandonment in a one-page paper with a one-page attachment considered *in globo* as a petition pursuant to 37 C.F.R. §1.181. Petitioner asserted that her reply to the 20 June, 2008, non-final Office action—transmitted on a date unstated—was received on 22 September, 2008. As indicated above, the Office record reflects that the reply in question was received in and by the Office on 23 September, 2008. Notably, the reply in question was received without a certificate of mail (37 C.F.R. §1.8), without an Express Mail transmission (37 C.F.R. §1.10), and without a date-stamped receipt card listing ("properly identifies") the papers submitted to and received by the Office (MPEP §503). Thus, Petitioner failed to use even one of those three methods sanctioned by the Office and pursuant to the Rules of Practice (37 C.F.R.). Moreover, as of this writing, Petitioner has failed to provide even a linkage that might tie the paper(s)/reply in question by U.S. Postal Service (USPS) tracking number (set forth above) with a USPS certified mail date-stamped card that Petitioner wishes to be considered. Petitioner states that "Operation of Reason [requires that her petition to withdraw the holding of abandonment] should be granted." Further, she asserts, "I am a *pro se* inventor and I feel that I should have some consideration for that also." Thus, Petitioner would: on one hand ignore the Rules of Practice but impose some other unstated "Operation of Reason"; and on the other hand provide different sets of compliance rules for different groups of Applicants. Petitioner complained that the Office makes a "highly legalistic review of facts." In fact, the Office only calls upon all Applicants to operate by the same rules—a basic element of fundamental fairness. Petitioner stated, "It is not my fault and I should not be penalized for something that was not untimely." The Office made no determination as to "fault." Rather, the Office provided methodologies for Applicants to ensure that they document and independently confirm their dealings with the Office. Petitioner failed to satisfy the required showing and the petition was dismissed on 14 December, 2009.

On 24 December, 2009, Petitioner resubmitted her petition in the form of the following: "I am filing a renewed petition to withdraw the holding of abandonment for Application No. 12,006,034 (circled, sic). Here is a copy of proof of the date of mailing of my response that was mailed timely. Here is additional proof of Date mailed from post office. YJ" As noted previously, there is absolutely no linkage provided by Petitioner as between the papers untimely filed and the USPS documents (a date-stamped stub and USPS payment receipt).

The Rules of Practice provide protections and benefits for applicants and practitioners (e.g., (37 C.F.R. §1.8 and §1.10 and MPEP §503), however, those protections and benefits are unavailable when Applicants fail to comply with/follow those rules.

On 7 May, 2010, and again on 13 May, 2010, Petitioner requested an extension of time—such extension as may be obtained (up to four (4) months) may be made at the time of the submission of the substantive petition and **must** be accompanied by the appropriate fee therefore (see: http://www.uspto.gov/web/offices/ac/qs/ope/fee2009september15.htm#patapp for the then-current fee schedule). The petition was dismissed on 16 June, 2010.

On 26 July, 2010, Petitioner requested an extension of time. Petitioner is reminded once again that such extension(s) as may be obtained (up to four (4) months) may be made at the time of the submission of the substantive petition and **must** be accompanied by the appropriate fee therefore (see: http://www.uspto.gov/web/offices/ac/qs/ope/fee2009september15.htm#patapp for the then-current fee schedule). The petition was dismissed on 21 September, 2010.

On 25 October, 2010, Petitioner submitted a one- (1-) page paper in an apparent effort to re-advance her petition pursuant to 37 C.F.R. §1.181 and to indicate an intention to file a petition pursuant to 37 C.F.R. §1.137(b)—and Petitioner included the required petition fee and appeared to point to the reply previously submitted on 23 September, 2008. Missing was the petition (form) and statement of unintentional delay (included in the petition form)—a copy of the form was enclosed with this decision of dismissal on 3 January, 2011.

On 25 January, 2011, Petitioner submitted a petition pursuant to 37 C.F.R. §1.137(b), pointed to the fee and the reply previously submitted, and made the statement of unintentional delay.

The record (including the petition filed on 25 January, 2011) does not necessitate a finding that the delay between midnight 20 September, 2008(the date of abandonment), and 25 January, 2011 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Applicant Yvonne Jett when accepting Petitioners' representation that the delay in filing the response was unintentional.[1]

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

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[4]))

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**.

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

The instant application is released to the Technology Center/AU 3673 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[5] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
12/006,084	12/27/2007	Kurt Buecheler	320528526US2	5449

25096 7590 09/07/2011
PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

EXAMINER
WILLIAMS, ROSS A

ART UNIT	PAPER NUMBER
3714	

NOTIFICATION DATE	DELIVERY MODE
09/07/2011	ELECTRONIC

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

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

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

patentprocurement@perkinscoie.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

Jessica M. Meyers
PERKINS COIE LLP
P.O. Box 1247
Seattle, Washington 98111-1247

In re Application of: Kurt Buecheler
Appl. No.: 12/006084
Filed: 12/27/2007
For: DVD GAME ARCHITECTURE

DECISION ON PETITION UNDER 37 C.F.R. 1.84(a)(2)TO ACCEPT COLOR DRAWINGS

This is a decision on the petition filed on June 30, 2008, by which petitioners request requesting acceptance of color drawings. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is requests that all the drawings, which are in color, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. 1.84(a)(2) must show that the color drawings are necessary as the only practical medium by which to disclose the subject matter sought to be patented in a utility or design patent application or the subject matter of a statutory invention registration..

Review of the application and of the claims shows that color drawings are not the only practical medium by which to disclose the subject matter sought to be patented.

Accordingly the petition is **DENIED**

David E. Lewis, S/P.E
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

FEB 17 2011

OFFICE OF PETITIONS

Richard M. Franchi, Esq.
264 Shagbark Drive
Derby, CT 06418

In re Application of Franchi :
Application No. 12/006,223 : Decision on Petition
Filing Date: January 2, 2008 :
For: Method of Disinfecting and Wetting :
the Interior of a Building :

This is a decision on the petition under 37 CFR 1.137(b), filed October 15, 2010, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed July 10, 2009, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on October 14, 2009.[1] A Notice of Abandonment was mailed on January 21, 2010.

The instant petition requests revival of the application.

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

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

The petition satisfies the requirements of 37 CFR 1.137(b) in so far as petitioner has supplied a reply in the form of an amendment previously filed on January 19, 2010, the required petition fee

[1] October 10, 2009, was a Saturday. October 11, 2009, was a Sunday. October 12, 2009, was a federal holiday. Therefore, a timely reply could have been filed without an extension of time as late as October 13, 2009.

of $810, and the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 1797 will be informed of the instant decision and the application, including the amendment filed January 19, 2010, will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE INVENTION SCIENCE FUND
CLARENCE T. TEGREENE
11235 SE 6TH STREET
SUITE 200
BELLEVUE WA 98004

MAILED

JAN 04 2012

OFFICE OF PETITIONS

In re Application
Roderick A. Hyde et al.
Application No. 12/006,237
Filed: December 31, 2007
Attorney Docket No.
0506-006-004-000000

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION PURSUANT TO 37 C.F.R. § 1.705(b)" filed December 13, 2011. Applicant requests that the determination of patent term adjustment be corrected to 7 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 correctness of the patent term adjustment until the patent has issued.

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

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

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is **DISMISSED**.

On October 37, 2011 the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. On December 13, 2011, applicant timely submitted the instant application for patent term adjustment[2]. Applicant maintains an additional period of adjustment should be entered for a total of 162 days under 37 C.F.R. § 1.703(a). Applicant argues that the USPTO reopened prosecution with a Final Office Action on September 1, 2010. This Final Office Action was vacated on March 2, 2011, and a new, nonfinal Office Action was mailed on March 22, 2011.

Applicant's argument has been considered, but not found persuasive. After the filing of an Appeal Brief on June 11, 2010, a non-Final Office Action was mailed on September 1, 2010, after which a Notice was mailed on March 2, 2011 vacating the September 1,

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

[2] PALM records indicate that at the time the application for patent term adjustment was filed, the issue fee had not been paid.

2010 Office Action, and a replacement Office Action was mailed March 22, 2011. The Notice mailed March 2, 2011 vacating the first action does not negate the fact that the Office took action in this application within the meaning of § 1.702(a)(1) on September 1, 2010. Accordingly, entry of a period of adjustment of 162 days for Office delay in mailing a further notification is not warranted.

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). No additional fees are required.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

MAILED

MAR 17 2011

OFFICE OF PETITIONS

In re Application of	:	
JUNG, et al	:	
Application No. 12/006,255	:	DECISION ON PETITION
Filed: December 31, 2007	:	TO WITHDRAW
Attorney Docket No. QQ1-0055US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 25, 2011.

The request is **NOT APPROVED.**

The request to withdraw from record cannot be approved because the request to change the correspondence address is not accompanied by a power of attorney nor is the correspondence address that of an assignee of the entire interest who has been properly made of record under 37 CFR 3.71 or the first named inventor.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

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

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

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

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PTT LLC (D/B/A HIGH 5 GAMES)
1200 MACARTHUR BLVD
MAHWAH NJ 07430

MAILED
APR 13 2012
OFFICE OF PETITIONS

In re Application of	:	
Singer et al.	:	
Application No. 12/006,298	:	DECISION ON PETITION
Filed: January 2, 2008	:	PURSUANT TO
Attorney Docket No.	:	37 C.F.R. § 1.137(B)
REPLICATING WILDS	:	
Title: METHOD OF REPLICATING	:	
A SYMBOL IN A GAME MATRIX	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed March 19, 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 in a timely manner to a non-final Office action, mailed May 16, 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 17, 2011. A notice of abandonment was mailed on January 6, 2012.

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

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

Commissioner may require additional information where there is a question whether the delay was unintentional, and;

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

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

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on March 19, 2012 can be processed in due course.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning this application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

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

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16830 VENTURA BLVD.
SUITE 360
ENCINO CA 91436

MAILED
AUG 12 2011
OFFICE OF PETITIONS

In re Application of
Daniel Karnwie-Tuah
Application No. 12/006,319
Filed: December 31, 2007
Attorney Docket No.: 22882-003

ON PETITION

This is a decision on the petition filed August 5, 2011 under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

A Restriction Requirement mailed on July 22, 2010 set the longer of one month or thirty days as the period for reply. No response to the July 22, 2010 Restriction Requirement having been timely filed, the application became abandoned August 24, 2010. Accordingly, a Notice of Abandonment was mailed March 3, 2011.

The petition fee in the amount of $810.00 has been charged to the credit card provided.

The response to the Restriction Requirement filed August 5, 2011 will be referred to Technology Center 3731 for further processing.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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SUITE 360
ENCINO CA 91436

MAILED

MAR 07 2012

OFFICE OF PETITIONS

In re Application of	:	
Daniel KARNWIE- TUAH	:	
Application No. 12/006,319	:	DECISION ON PETITION
Filed: December 31, 2007	:	TO WITHDRAW
Attorney Docket No. **22882-003**	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 16, 2012.

The request is **NOT APPROVED**.

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

Accordingly, the request to withdraw from record cannot be approved because the change of address is not that of: **(1) the first named inventor; or (2) an assignee of the entire interest under C.F.R 3.71, who has properly intervened. Also, no box was checked indicating who was to be withdrawn from the application. The person who signed the Request to Withdraw does not have power of attorney in the application. The Office recommends the filing of a power of attorney.**

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

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

/Michelle R. Eason/
Michelle R. Eason
Paralegal Specialist
Office of Petitions

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COHEN I.P. LAW GROUP, P.C.
9025 Wilshire Blvd., Suite 301
Beverly Hills CA 90211

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of	:	
Sung KUK	:	
Application No. 12/006,382	:	DECISION ON PETITION
Filing Date: January 02, 2008	:	
Attorney Docket No. 342-01	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Omitted Items in a Nonprovisional Application mailed February 04, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 30, 2008. The Notice of Abandonment was mailed May 05, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a substitute specification, replacement drawings and new oath/declaration; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice of Omitted Items in a Nonprovisional Application of February 04, 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
Paralegal Specialist
Petitions Examiner
Office of Petitions

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MAILED
JAN 27 2012
OFFICE OF PETITIONS

Clark Lysne
R.R. #5
Wetaskiwin AB T9A1X-2 CA CANADA

In re Application of	:	
Clark Emory Lysne	:	
Application No.: 12/006426	:	DECISION ON
Filing or 371(c) Date: 01/03/2008	:	PETITION
Title of Invention:	:	
VERTICAL EVAPORATION TECHNOLOGIES	:	

This is a decision in response to the Petition for Revival of Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed December 5, 2011.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment ("Notice"), mailed April 19, 2011. The Notice set a one (1) month period for reply. Extensions of time were available under 37 CFR 1.136(a). Applicant filed a reply to the Notice on May 23, 2011; however the reply/amendment was also non-compliant, and lacked the appropriate extension of time fee. Applicant was so notified in a Notice, mailed June 28, 2011. Applicant filed the extension of time fees and an Amendment on October 7, 2011, however, the reply remained non-compliant, No complete and proper reply having been received, the application became abandoned on May 24, 2011. A Notice of Abandonment was mailed October 12, 2011, and a Notice informing Applicant that the Amendment remained non-compliant was mailed on October 24, 2011.

Applicant files the present petition and Amendment in response to the Notice. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The Office notes that the grant of a petition under 37 CFR 1.137 is not a determination that any reply under 37 CFR 1.111 is complete. After revival of the application, the patent examiner may, upon more detailed review, determine that the reply is lacking in some respect. See MPEP 711.03(c)(II)(A)(2)(a).

This application is being referred to Technology Center Art Unit 1771 for processing of the reply to the Notice filed with the petition in due course.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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J. NEVIN SHAFFER, JR.
SUITE 43
913 GULF BREEZE PARKWAY
GULF BREEZE FL 32561

MAILED

JUL 05 2011

OFFICE OF PETITIONS

In re Application of	:	
Kenneth M. FORD et al.	:	
Application No. 12/006,535	:	DECISION ON PETITION
Filed: January 03, 2008	:	
Attorney Docket No.	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 29, 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 30, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 13/071,020 filed March 24, 2011.

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

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

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

This application is being referred to Technology Center AU 2121 for appropriate action by the Examiner in the normal course of business on the reply received

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **WILEY HORTON**
215 SOUTH MONROE STREET
2ND FLOOR
TALLAHASSEE FL 32301

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Stuart Allen Garrie
113 Cedar Crest Lane
Bellevue WA 98004

MAILED

AUG 15 2011

OFFICE OF PETITIONS

In re Application of	:	
Stuart Allen Garrie	:	
Application No. 12/006,552	:	DECISION ON PETITION
Filed: January 2, 2008	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 8, 2011, to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a certification by a registered attorney. Accordingly, the above-identified application has been accorded "special" status.

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

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 2626 for action on the merits commensurate with this decision.

JoAnne Burke
Petitions Examiner
Office of Petitions

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DUANE MORRIS LLP - PHILADELPHIA
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

MAILED

DEC 08 2011

OFFICE OF PETITIONS

In re Application of
Mark A. Reiley
Application No. 12/006,720
Filed: January 4, 2008
Attorney Docket Number: E3833-00065

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed November 14, 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(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

A Restriction Requirement was mailed February 25, 2011. A response was due not later than March 25, 2011. No response having been filed, this application became abandoned March 29, 2011 and a Notice of Abandonment was mailed October 7, 2011.

Petitioner asserts unavoidable delay in responding to the Office Action because of non-receipt.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with §

> 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
> (2) the petition fee as set forth in § 1.17(l);
> (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
> (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3) above.

SHOWING OF UNAVOIDABLE DELAY

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Petitioner argues that "on July 21, 2008, Applicant filed a Power of Attorney statement for this application to transfer Power of Attorney from Ryan, Kromholz, & Manion, S.C. ("RKM") to Duane Morris, LLP along with the Certificate under 37 CFR § 3.73(b). On July 28, 2008, the Office rejected the Power of Attorney for failure to file the Certificate required by 37 CFR § 3.73(b). Although the statement was filed, the Certificate inadvertently failed to include the reel/frame at which the assignment from the inventor to Inbone Medical Technologies, Inc. was recorded. The Notice Regarding Power of Attorney was mailed to RKM and was not received by Duane Morris. Duane Morris was not aware that the power of attorney was not accepted by the Office as RKM did not forward a copy of the Notice or otherwise make Duane Morris aware of the Notice." In view thereof, Petitioner further argues, "On February 25, 2011, the Office mailed a Restriction Requirement to RKM. Duane Morris did not receive a copy of the Restriction Requirement and was not aware that the Restriction Requirement had been mailed as RKM did not forward a copy of the Restriction Requirement, nor did RKM otherwise make Duane Morris aware of the Restriction Requirement."

Receipt is acknowledged of the revocation and power of attorney filed July 21, 2008 signed by Jason Hood, General Counsel, on behalf of the assignee. However, a review of the power of attorney discloses that it was unacceptable since was not in compliance with 37 CFR 3.73(b). Specifically, petitioners had not provided documentary evidence of a chain of title from the original owner to the assignee, nor shown that documentary evidence of a chain of title from the original owner to the assignee was recorded in the assignment records of the Office (*i.e.* reel and frame number).

In view thereof, petitioner has not carried the burden of proof to establish to the satisfaction of the Commissioner that the delay was unavoidable and the record fails to adequately evidence that petitioner exercised the due care observed by prudent and careful men, in preparation of the statement under 37 CFR 3.73(b) and therefore in relation to their most important business, to establish unavoidable delay, Pratt, supra.

As the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a), the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[3],

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

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

which now provides 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).

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

It should be noted that if petitioner chooses to file a petition under the unintentional standard the fees due would be $1620.00 for a large entity and $810.00 for a small entity and the fees submitted with the instant petition cannot be applied as petitioner has already received consideration under the unavoidable standard.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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DEC 29 2011

OFFICE OF PETITIONS

In re Application of
Mark A. Reiley
Application No. 12/006,720
Filed: January 4, 2008
Attorney Docket Number: E3833-00065

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 21, 2011 to revive the above-identified application.

The petition is **GRANTED**.

A Restriction Requirement was mailed February 25, 2011. A response was due not later than March 25, 2011. No response having been filed, this application became abandoned March 29, 2011 and a Notice of Abandonment was mailed October 7, 2011. In a petition filed November 14, 2011, petitioner asserted unavoidable delay in responding to the Office Action because of non-receipt. The petition was dismissed in a decision mailed December 8, 2011 because the evidence provided did not establish that the delay was "unavoidable".

All other requirements of 37 CFR 1.137(b) having now been met, the response to the Restriction Requirement filed December 21, 2011 will be referred to Technology Center 3775 for further processing.

An overpayment in the petition fees has been detected and will be credited to deposit account no. 04-1679.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
12/006,747	01/04/2008	Wouter De Laat	P09434US00	7085

22885 7590 03/09/2012
MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

EXAMINER
THOMAS, DAVID C

ART UNIT	PAPER NUMBER
1637	

NOTIFICATION DATE	DELIVERY MODE
03/09/2012	ELECTRONIC

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

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

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

patatty@ipmvs.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

March 8, 2012

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

In re Application of	:	
DE LAAT, WOUTER et al	:	**DECISION ON PETITION**
Application No. 12/006,747	:	
Filed: 01/04/2008	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. P09434US00	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) November 23, 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, (One (1) set for EFW filings, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

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

The petition was accompanied by all of the requirements above. Therefore, the petition is GRANTED.

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

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NELSON MULLINS RILEY & SCARBOROUGH LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

MAILED

MAY 3 1 2011

OFFICE OF PETITIONS

In re Application of	:	
Henry L. Niman	:	
Application No. 12/006,795	:	DECISION ON PETITION
Filed: January 4, 2008	:	TO WITHDRAW
Attorney Docket No. HNI-002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 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 Amy E. Mandragouras, on behalf of all attorneys/agents associated with customer number 00959. All attorneys/agents associated with customer number 00959 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: Henry L. Niman
648 Field Club Road
Pittsburgh, PA 15238

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
12/006,795	01/04/2008	Henry L. Niman	HNI-002

CONFIRMATION NO. 7055

POWER OF ATTORNEY NOTICE

959
NELSON MULLINS RILEY & SCARBOROUGH LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON, MA 02109

OC000000047929947

Date Mailed: 05/27/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/03/2011.

- 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED
FEB 23 2011
OFFICE OF PETITIONS

In re Application of	:	
Pui Hang Yuen, et al.	:	
Application No. 12/006,844	:	DECISION ON PETITION
Filed: January 6, 2008	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. Q121394	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 22, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin at (571) 272-3222. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2875 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Chris Bottorff
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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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
12/006,844	01/06/2008	2875	1000	Q121394	7	7

CONFIRMATION NO. 7343

CORRECTED FILING RECEIPT

23373
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

OC000000046102931

Date Mailed: 02/22/2011

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)

Pui Hang Yuen, Shatin, HONG KONG;
Sik Hing Yuen, Foster City, CA;

Power of Attorney: The patent practitioners associated with Customer Number 23373

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/879,254 01/07/2007

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

If Required, Foreign Filing License Granted: 02/04/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/006,844**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

High efficiency low cost safety light emitting diode illumination device

Preliminary Class

362

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).

2 8 SEP 2010

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P.O. Box 1450
Alexandria, VA 22313-1450
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CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS NJ 07652

In re Application of	:
Kim et al.	:
Application No. 12/006,996	: DECISION ON PETITION
Filed: January 8, 2008	:
Attorney Docket No.: 5020-1-012	: UNDER 37 CFR 1.78(a)(3)
For: Variable Phase Shifter	:

This is a decision on the petitions filed on September 23, 2009 and July 26, 2010, which are being treated together 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 international application set forth in the amendment filed on July 26, 2010.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application(s) is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR

1.78(a)(2)(iii); (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(s) satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3283. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2817 for appropriate action on the amendment filed July 26, 2010, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/007,038	01/04/2008	Dong-hun Kang	2557SI-000812/US	7193

7590 10/12/2011
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
WEISS, HOWARD

ART UNIT	PAPER NUMBER
2814	

MAIL DATE	DELIVERY MODE
10/12/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

October 11, 2011

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

Re Application of
KANG, DONG-HUN, Et AL.
Application: **12/007038**
Filed: **01/04/2008**
Attorney Docket No: **2557SI-000812/US**

: **DECISION ON PETITION**
: **ACCEPTANCE OF COLOR**
: **DRAWINGS**

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) April 1, 2008.

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

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

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

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

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

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
OCT 13 2010
OFFICE OF PETITIONS

In re Patent No. 7,799,929	:	
Issue Date: September 21, 2010	:	
Application No. 12/007,118	:	ON PETITION
Filed: January 7, 2008	:	
Attorney Docket No. 0283-0194PUS2	:	

This is a decision on the petition filed August 30, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane Goodwyn at (571) 272-6735. 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.

Thurman K. Page
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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JACKSON INTELLECTUAL PROPERTY GROUP PLLC
106 STARVALE LANE
SHIPMAN VA 22971

MAILED
SEP 14 2010
OFFICE OF PETITIONS

In re Application of	:	
Tsun-Neng Yang et al	:	
Application No. 12/007,154	:	DECISION ON PETITION
Filed: January 7, 2008	:	
Attorney Docket No. 7000.227	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application mailed February 1, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to the Office of Patent Application Processing for pre-examination processing.

/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

Jackson Intellectual Property Group PLLC
106 Starvale Lane
Shipman VA 22971

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

In re Application of	:	
Hwen-Fen Hong et al.	:	
Application No. 12/007,155	:	DECISION ON PETITION
Filed: January 7, 2008	:	
Attorney Docket No. 7000.233	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application (Notice), mailed February 1, 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) was obtained. Accordingly, the application became abandoned on April 2, 2008. A Notice of Abandonment was mailed October 10, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an examination fee of $110, a search fee of $270, a basic filing fee of $165, and a surcharge fee of $65 (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the fees are accepted as being unintentionally delayed.

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

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

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received July 12, 2010. Inquires regarding the status of the application should be directed to 571-272-4000.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/22/10

TO SPE OF : ART UNIT: 2441 Attn: CHAN WING F (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 12/007192 Patent No.: 7668955

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

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

/Wing F. Chan/ 2441
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

BINGHAM MCCUTCHEN LLP
2020 K STREET, N.W.
INTELLECTUAL PROPERTY DEPARTMENT
WASHINGTON, DC 20006

MAILED

JUN 20 2011

OFFICE OF PETITIONS

In re Application of	:	
Ying HU, et *al.*	:	
Application No. 12/007,325	:	DECISION ON PETITION
Filed: January 9, 2008	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **7056622001**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 21, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 20, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed January 20, 2011. Accordingly, the date of abandonment of this application is April 21, 2011.

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

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

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

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

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **MICHAEL A. SCHWARTZ**
MURPHY & KING, PC
1055 THOMAS JEFFERSON STREET
WASHINGTON, DC 20007

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.
12/007,338	01/09/2008	Barry G. Mattox	4358-0145PUS1	8343

2292 7590 01/18/2012
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER
EDWARDS, PATRICK L

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
01/18/2012	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):

mailroom@bskb.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of :
Mattox, Barry G. :
Serial No.: 12/007338 :
Filed: January 9, 2008 : *DECISION ON PETITION*
: *ACCEPTANCE OF COLOR* DRAWINGS

For: **IMPROVED PROCESSING OF MULTI-COLOR IMAGES FOR DETECTION AND CLASSIFICATION**

This is a decision on the petition under 37 CFR §1.184(a)(2), March 20th, 2008 requesting acceptance of color drawings.

The petition requests that the color drawings identified in FIG.7 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

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

The specification does not include the above statement as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition is DENIED.

Petitioner may submit a request for reconsideration within **TWO MONTHS** of the date of this decision. Any request for reconsideration should be complete, i.e., submission of a corrective amendment which deletes the previous amendment to the first paragraph of the specification and adds the notation above as the first paragraph to the brief description of the drawings.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KLEIN, O'NEILL & SINGH, LLP
18200 VON KARMAN AVENUE
SUITE 725
IRVINE CA 92612

MAILED
DEC 12 2011
OFFICE OF PETITIONS

In re Patent of	:	
Sam Shiaw-Shiang Jiang	:	
Pat. Num./Pub. Num: 8,081,648	:	
Issue Date: 12/20/2011	:	
Application No. 12/007341	:	
Filing or 371(c) Date: 01/09/2008	:	ON PETITION
Attorney Docket Number: 1291-035.101	:	

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

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOMTOM INTERNATIONAL B.V.
REMBRANDTPLEIN 35,
AMSTERDAM 1017CT NL NETHERLANDS

MAILED
FEB 28 2011
OFFICE OF PETITIONS

In re Application of :
Adrian Blackwood :
Application No. 12/007,373 : DECISION ON PETITION
Filed: January 9, 2008 :
Attorney Docket No. **1018/US** :

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**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 23, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed September 23, 2010. Accordingly, the date of abandonment of this application is December 24, 2010.

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

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

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 09 2010

OFFICE OF PETITIONS

TOM TOM INTERNATIONAL
REMBRANDTPLEIN 35
AMSTERDAM CT-10-17 NL NETHERLANDS

In re Application of	:	
Blackwood	:	
Application No. 12/007,383	:	ON PETITION
Filed: January 9, 2008	:	
Attorney Docket No. 1016/US	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed November 15, 2010.

The petition under 37 CFR 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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181".

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed on March 16, 2010. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on April 17, 2010. The Office mailed a Notice of Abandonment on November 8, 2010.

On petition, applicant argues that he did not receive the March 16, 2010 non-final Office action. In support thereof, petitioner has included a copy of an incoming mail log.

To establish non-receipt of an Office action, a petitioner:

> must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.[1]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of 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.

Here, petitioner has not submitted a copy of a master docket report, showing all the firm's replies docketed for a due date of April 16, 2010. Nor has petitioner stated that such a master docket exists.

While the showing of record is not sufficient to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

---

[1] MPEP 711.03(c).

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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TOM TOM INTERNATIONAL
REMBRANDTPLEIN 35
AMSTERDAM CT-10-17 NL NETHERLANDS

MAILED
JAN 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Blackwood	:	
Application No. 12/007,383	:	ON PETITION
Filed: January 9, 2008	:	
Attorney Docket No. 1016/US	:	

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 15, 2010.

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

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed on March 16, 2010. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on April 17, 2010. The Office mailed a Notice of Abandonment on November 8, 2010. Applicant filed a petition to withdraw the holding of abandonment on November 15, 2010. However, the petition was dismissed in a decision mailed on December 9, 2010.

With the instant renewed petition, applicant argues that he did not receive the March 16, 2010 non-final Office action. In support thereof, petitioner has included a copy of an incoming mail log, and a copy of the individual docket record for the instant application showing where correspondence would have been entered. In addition, petitioner has stated that he does not keep a master docket report.

To establish non-receipt of an Office action, a petitioner:

> must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.[1]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of 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.

In view of the evidence submitted on renewed petition, it is concluded that petitioner has established that he did not received the March 16, 2010 Office action. As such, the holding of abandonment is withdrawn.

<u>The application is being forwarded to Group Art Unit 3663 for re-mailing of the March 16, 2010 Office action, setting a new period for reply</u>.

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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[1] MPEP 711.03(c).

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
4th Floor
WASHINGTON DC 20005

MAILED
OCT 06 2011
OFFICE OF PETITIONS

In re Patent No. 7,963,025	:	
Issue Date: June 21, 2011	:	
Application No. 12/007,423	:	ON PETITION
Filed: January 10, 2008	:	
Attorney Docket No. 050288A	:	

This is a decision on the request filed September 15, 2011, a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

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

A request for certificate of correction requires a fee of $100. This fee will be charged to petitioner's deposit account.

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Muncy, Geissler, Olds & Lowe, PLLC
4000 Legato Road
Suite 310
FAIRFAX VA 22033

MAILED

NOV 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Deng-His Chen	:	
Application No. 12/007,477	:	DECISION ON PETITION
Filed: January 10, 2008	:	
Attorney Docket No. 5545/0354PUS1	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed April 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 June 17, 2008. The Notice of Abandonment was mailed December 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 basic filing fee, the surcharge, the search fee and the examination fee, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

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

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.

This application is being referred to the Office of Patent Application Processing for appropriate action on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Joe McKinney Muncy**
PO Box 1364
Fairfax, VA 22038-1364

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110502

DATE : May 02, 2011

TO SPE OF : ART UNIT 1657

SUBJECT : Request for Certificate of Correction on Patent No.: 7811782

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:

/JON P WEBER/
Supervisory Patent Examiner.Art Unit 1657

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.
12/007,564	01/11/2008	Toru Kidokoro	133809	9969

7590 12/10/2010
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER
SHANSKE, JASON D

ART UNIT	PAPER NUMBER
3748	

NOTIFICATION DATE	DELIVERY MODE
12/10/2010	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
APR 13 2011
OFFICE OF PETITIONS

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

In re Patent No. 7,718,318	:	
Issue Date: May 18, 2010	:	
Application No. 12/007,617	:	DECISION ON PETITION
Filed: January 14, 2008	:	
Attorney Docket No. 043888-0612	:	

This is a decision on the Request For Correction Of Correction Under 37 C.F.R. 1.323, filed November 16, 2010, which is being treated as a Petition Under 37 CFR §3.81(b), to accept the omission of the second assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

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

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

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

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

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) submitted with the petition.

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

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (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. 7,718,318.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/007,635	01/14/2008	Thomas Dean Milster	320191US20	9909

7590 05/31/2011
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
FRANK, EMILY J

ART UNIT	PAPER NUMBER
2627	

NOTIFICATION DATE	DELIVERY MODE
05/31/2011	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

May 26, 2011

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

Re Application of	
MILSTER, THOMAS DEAN, ET AL.	: **DECISION ON PETITION**
Application: **12/007635**	: **ACCEPTANCE OF COLOR**
Filed: **01/14/2008**	: **DRAWINGS**
Attorney Docket No: **320191US20**	:

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) January 14, 2008.
The petition is **GRANTED**.
A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

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

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

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

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

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

DEC 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Perry F. Bartlett et al.	:	
Application No. 12/007,656	:	NOTICE
Filed: January 14, 2008	:	
Attorney Docket No. **029860-0194**	:	

This is a notice regarding your request filed August 5, 2010, 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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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of		DEC 14 2010
BARTLETT, PERRY F. et al.	:	
Application No.: 12/007,656	:	DECISION ON
Filing or 371(c) Date: January 14, 2208	:	PETITION
Attorney Docket Number: 029860-0194	:	

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on September 1, 2010.

This petition is **GRANTED**.

The application was held abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance, mailed May 12, 2010 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on August 25, 2010.

Petitioner states that the issue fee transmittal and payment were timely filed via the Hand Delivery to USPTO on August 5, 2010. Petitioner submitted a copy of the postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : February 15, 2012

In re Application of :

Alexandr Vygonyaylo

Application No : 12007803

Filed : 15-Jan-2008

Attorney Docket No : 096957-0106

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 15, 2012

The request is **APPROVED.**

The request was signed by Courtenay C Brinckerhoff (registration no. 37288) on behalf of all attorneys/agents associated with Customer Number 22428 . All attorneys/agents associated with Cusotmer Number 22428 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	Alec Fesenko
Name2	Fairstock Technologies Corporation
Address 1	PO Box 11684
Address 2	
City	Washington
State	DC
Postal Code	20008
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	12007803
Filing Date	15-Jan-2008
First Named Inventor	Alexandr Vygonyaylo
Art Unit	1735
Examiner Name	PAUL WARTALOWICZ
Attorney Docket Number	096957-0106
Title	METHODS FOR TRANSFORMING COMPOUNDS USING A METAL ALLOY AND RELATED APPARATUS

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 22428

The reason(s) for this request are those described in 37 CFR:

10.40(c)(1)(vi)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Alec Fesenko Fairstock Technologies Corporation
Address	PO Box 11684
City	Washington
State	DC
Postal Code	20008
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Courtenay C. Brinckerhoff/
Name	Courtenay C Brinckerhoff
Registration Number	37288

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MAR 03 2011
OFFICE OF PETITIONS

JACKSON INTELLECTUAL PROPERTY GROUP PLLC
106 STARVALE LANE
SHIPMAN VA 22971

In re Application of	:	
Fu-Shih Hsiao	:	
Application No. 12/007,810	:	ON PETITION
Filed: January 15, 2008	:	
Attorney Docket No. 7005.166	:	

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts mailed February 5, 2008. A Notice of Abandonment was mailed on October 10, 2008.

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

The drawing sheet submitted on November 30, 2010 is not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d), as required in the Notice mailed February 5, 2008.

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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JACKSON INTELLECTUAL PROPERTY GROUP PLLC
106 STARVALE LANE
SHIPMAN VA 22971

MAILED
APR 01 2011
OFFICE OF PETITIONS

In re Application of	:	
Fu-Shih Hsiao	:	
Application No. 12/007,810	:	DECISION ON PETITION
Filed: January 15, 2008	:	
Attorney Docket No. 7005.166	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of replacement drawings and the required fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts mailed February 5, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to the Office of Patent Examination Processing for pre-examination processing.

/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
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GUICE PATENTS PLLC
12647 GALVESTON COURT #302
MANASSAS VA 20112

MAILED

SEP 1 4 2010

OFFICE OF PETITIONS

In re Application of	:	
Stekelenburg, Albert	:	
Application No. 12/007,811	:	ON PETITION
Filed: January 15, 2008	:	
Attorney Docket No. 4614-0018	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 25, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the basic filing fee, search and examination fees, along with the late surcharge, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

As the Power of Attorney was only recently given to the petitioner, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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

This matter is being referred to the Office of Patent Application Processing for further pre-examination processing. Thereafter, the application will be referred to Technology Center AU 2875 for examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GUICE PATENTS PLLC
12647 GALVESTON COURT #302
MANASSAS, VA 20112

In re Application of	:	
Stekelenburg Albert	:	
Application No. 12/007,812	:	ON PETITION
Filed: January 15, 2008	:	
Attorney Docket No. 4614-0019	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 5, 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 Notice To File Missing Parts of Nonprovisional Application (Notice) mailed February 5, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on April 6, 2008.

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

This matter is being referred to the Office of Patent Application Processing.

Irvin Dingle
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	12007837
Filing Date	16-Jan-2008
First Named Inventor	Kenichi Watanabe
Art Unit	2625
Examiner Name	DOUGLAS TRAN
Attorney Docket Number	076376.1471
Title	INFORMATION PROCESSING APPARATUS AND PROGRAM

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	/Chad Michael Cullen/
Name	Chad Michael Cullen
Registration Number	64476

UNITED STATES 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 26,2011

In re Application of :

Kenichi Watanabe

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 12007837

Filed : 16-Jan-2008

Attorney Docket No : 076376.1471

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed August 26,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid 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 2625 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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01 OCT 2010

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

In re Application of	:	
SONDEREGGER	:	
Application No.: 12/007,928	:	DECISION ON PETITION
Filing Date: January 17, 2008	:	UNDER 37 CFR 1.55
Attorney Docket No.: 705124-4001	:	

This is a decision on the petition under 37 CFR 1.55(c), filed June 16, 2010, for acceptance of an unintentionally delayed claim under 35 U.S.C. 119(a)-(d) for benefit of the filing date of Switzerland application number 966/97 filed April 26, 1997.

The petition is **DISMISSED**.

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

The instant petition fails to comply with item (1) above. In this regard, a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet in accordance with 37 CFR 1.76(b)(6). Unless provided in an application data sheet, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent or inventor's certificate for which priority is claimed under 37 CFR 1.55, and any foreign applications having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. Note MPEP 201.14, page 200-84 (Rev. 5, August 2006), last paragraph, second column.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

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

Any questions concerning this matter may be directed to Bryan Lin at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-6357

MAILED
DEC 17 2010
PCT LEGAL ADMINISTRATION

In re Application of	:	
SONDEREGGER	:	
Application No.: 12/007,928	:	DECISION ON PETITION
Filing Date: January 17, 2008	:	UNDER 37 CFR 1.55
Attorney Docket No.: 705124-4001	:	

This is a decision on the petition under 37 CFR 1.55(c), filed on October 14, 2010, for acceptance of an unintentionally delayed claim under 35 U.S.C. 119(a)-(d) for benefit of the filing date of Switzerland application number 966/97 filed April 26, 1997.

The petition is **DISMISSED**.

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 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 instant petition fails to comply with item (5) above.

MPEP 201.11, Section III. C., states in relevant part,

> 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. . . . 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. (Emphasis added.)

In the present case, intermediate application number 10/843,299 does not contain a proper reference to parent application number 09/403,724. It is noted that the Certificate of Correction in patent number 7,666,613 did not cure this deficiency since the relationship (i.e. continuation, divisional, or continuation-in-part) between application number 10/843,299 and application number 09/403,724 was not specified. Accordingly, the present application is not entitled to claim the benefit of application number 09/403,724 until the appropriate reference is made in application number 10/843,299. Since the benefit of application number 09/403,724 is necessary to claim priority to the foreign application, the instant petition cannot be granted until the appropriate reference is made in application number 10/843,299.

Applicant is advised that the declaration filed on 27 October 2010 properly identifies the prior foreign application. The concurrently filed Application Data Sheet, however, is not titled in accordance with 37 CFR 1.76(c)(2).

In view of the above, application number 10/843,299 must be amended to contain a proper reference to application number 09/403,724 if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

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

Bryan Lin
Legal Examiner
Office of PCT Legal Administration
(571) 272-3303

UNITED STATES PATENT AND TRADEMARK OFFICE

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6300 WILLIS TOWER
CHICAGO, IL 60606-6357

MAILED
NOV 09 2011
PCT LEGAL ADMINISTRATION

In re Application of	:	
SONDEREGGER	:	
Application No.: 12/007,928	:	DECISION ON PETITION
Filing Date: January 17, 2008	:	UNDER 37 CFR 1.55
Attorney Docket No.: 705124-4001	:	

This is a decision on the renewed petition under 37 CFR 1.55(c), filed on September 27, 2011, for acceptance of an unintentionally delayed claim under 35 U.S.C. 119(a)-(d) for benefit of the filing date of Switzerland application number 966/97 filed April 26, 1997.

The petition is **GRANTED**.

The present 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 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 above-identified pending nonprovisional application was filed after November 29, 2000 and claims the benefit of a prior U.S. application that was filed on April 24, 1998, which is within 12 months of April 26, 1997 (the filing date of the foreign application to which benefit is now being claimed). On October 27, 2010, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee has been submitted. Lastly, petitioner has provided a proper statement of unintentional delay.

Any inquiries concerning this decision may be directed to Bryan Lin at (571)272-3303. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1632 for examination, including consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

BryanLin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/007,965	01/17/2008	Lunjian Mu	10195.0040	2968

7590 09/08/2010
Huawei Technologies Co., Ltd./Finnegan
901 New York Avenue
NW
Washington, DC 20001

EXAMINER
NGUYEN, ANGELA

ART UNIT	PAPER NUMBER
2442	

MAIL DATE	DELIVERY MODE
09/08/2010	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED

MAY 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Park et al.	:	
Application No. 12/007,977	:	ON PETITION
Filed: January 17, 2008	:	
Attorney Docket No. 1952.1039	:	

This is a decision on the petition under 37 CFR 1.181, filed March 16, 2011, requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed June 18, 2010, which set a shortened statutory period for reply of one (1) month. A reply was due on or before July 18, 2010. A Notice of Abandonment was mailed March 11, 2011.

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USTPO) on July 16, 2010 of 1. Response to Species Election Requirement (1 pg). Petitioner has supplied a copy of the previously mailed correspondence.

The reply acknowledged as having been received in the USPTO on July 16, 2010 is not of record in the application file and cannot be located. However, MPEP 503 states that "A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply was timely received in the USPTO but was apparently lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status. A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee and none has been charged.

This matter is being referred to Technology Center AU 2895 for further examination on the merits.

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

Liana Walsh

Liana Walsh
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WYETH LLC
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

MAILED

NOV 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Barry et al.	:	
Application No. 12/008129	:	
Filing or 371(c) Date: 01/09/2008	:	ON PETITION
Attorney Docket Number:	:	
PC58356A	:	

This is a decision on the Petition Under 37 CFR 1.137(b), filed October 20, 2011, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed March 25, 2011. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No complete and proper reply having been received, the application became abandoned on June 26, 2011.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 1646 for processing of the Amendment filed with the petition in due course.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BURTON IP LAW GROUP
SUITE 1400
2029 CENTURY PARK EAST
LOS ANGELES CA 90067

MAILED

DEC 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Stephen Schneider	:	
Application No. 12/008,139	:	DECISION ON PETITION
Filed: January 9, 2008	:	
Attorney Docket No. 010004-001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 8, 2010 and November 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 20, 2010, as required by the Notice of Allowance and Fee(s) Due mailed June 18, 2010. Accordingly, the date of abandonment of this application is September 21, 2010. A Notice of Abandonment was mailed October 12, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00 and the publication fee of $300.00, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

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

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PORTLAND INTELLECTUAL PROPERTY, LLC
900 SW FIFTH AVENUE, SUITE 1820
PORTLAND OR 97204

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Joseph Unkyung Han	:	
Application No. 12/008,193	:	DECISION ON PETITION
Filed: January 8, 2008	:	
Attorney Docket No. P 1194.27003	:	

This is a decision on the petition under 37 CFR 1.181, filed July 26, 2010, requesting withdrawal of the holding of abandonment in the above-identified application.

This application became abandoned for failure to reply in a timely manner to the final Office action mailed February 6, 2009. A Notice of Abandonment was mailed September 1, 2009.

Petitioner states that the reply was timely and has submitted a copy of the response filed February 12, 2009. Petitioner has submitted a copy of the postcard receipt showing a USPTO stamped date of February 17, 2009, as well as a copy of the previously mailed correspondence, which bears a certificate of mailing dated February 12, 2009, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a

copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been received February 17, 2009.

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

This matter is being referred to Technology Center 3654 for consideration of the Amendment filed with the instant petition.

/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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JACK PAAVILA
43 VICTORIA ST., W.
ALEXANDRIA KOC IA0 CA CANADA

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Denis, Laurent	:	
Application No. 12/008,203	:	ON PETITION
Filed: January 8, 2008	:	
Attorney Docket No. 196-15US	:	

This is a decision on the renewed petition, filed June 18, 2010, which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

This application was held abandoned for failure to timely and properly respond to the Notice of Allowance of October 8, 2009, which set a three (3) month statutory period for reply. Accordingly, a reply was due on or before January 8, 2010. A Notice of Abandonment was mailed January 26, 2010.

Petitioner timely submitted the Issue Fee Transmittal on December 14, 2009. However, the credit card payment concurrently remitted was declined by the credit card company. Petitioner has now submitted a letter from BMO Bank of Montreal, stating that the payment was declined due to "increased fraudulent activity in various parts of the world. Further, the bank "actively monitor accounts on an ongoing basis, as foreign transactions occur."

Petitioner has provided confirmation from the credit card company as to the reason for the decline, payment was still not received in a timely manner by the USPTO. Although the situation is unfortunate for the petitioner, the reason behind the denial of payment is not significance to the USPTO. Accordingly, the instant application was properly abandoned.

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.

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

(1) The reply required to the outstanding Office action, unless previously filed;

(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.

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

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

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JACK PAAVILA
43 VICTORIA ST., W.
ALEXANDRIA KOC IA0 CA CANADA

MAILED

OCT 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Denis, Laurent	:	
Application No. 12/008,203	:	ON PETITION
Filed: January 8, 2008	:	
Attorney Docket No. 196-15US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
12/008,204	01/08/2008	Stephen R. Hanson	3800001.00004 / 5202D	8898

77202 7590 12/13/2010
K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego, CA 92130

EXAMINER
FUBARA, BLESSING M

ART UNIT	PAPER NUMBER
1613	

MAIL DATE	DELIVERY MODE
12/13/2010	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

DEC 1 3 2010

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego, CA 92130

In re Application of:
Stephen Hanson
Serial No.: 12/008,204
Filed: January 8, 2008
Attorney Docket No: **3800001.00004 / 5202D**

: PETITION DECISION

This is in response to the petition filed on November 30, 2010 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 April 14, 2008; January 14, 2009; and September 30, 2010 in connection with the above-referenced application and consideration by the Examiner of the documents and information contained therein."

Applicant argues the "Information Disclosure Statements were submitted in connection with the above-captioned application on April 14, 2008; January 14, 2009; and September 30, 2010. Each Information Disclosure Statement was prepared in accordance with 37 C.F.R 1.97 and 1.98. As required under 37 C.F.R 1.98, each Information Disclosure Statement contained 1) a list of all patents, publications, applications, or other information submitted for consideration by the Office, including a column that provides a space next to each document to be considered, for the examiner's initials and a heading that clearly indicates that the list is an Information Disclosure Statement; and 2) legible copies of all items listed. The items either were in English or a translation was provided. Copies of the misclassified Information Disclosure Statements filed on April 14, 2008; January 14, 2009; and September 30, 2010 are attached.

The submitted Information Disclosure Statements 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" (April 14, 2008, "Transmittal Letter" of 16 pages; January 14, 2009, "Transmittal Letter" of 4 pages; and September 30, 2010, "Transmittal Letter" of 2 pages). Consequently the information contained therein was not 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 April 14, 2008; January 14, 2009; and September 30, 2010.

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

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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WPAT, PC
INTELLECTUAL PROPERTY ATTORNEYS
2030 MAIN STREET, SUITE 1300
IRVINE CA 92614

MAILED
AUG 02 2010
OFFICE OF PETITIONS

In re Application of	:	
Robert A. BOGER	:	
Application No. 12/008,280	:	DECISION ON PETITION
Filed: January 10, 2008	:	
Attorney Docket No. 17310-032	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 25, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed February 25, 2010. Accordingly, the date of abandonment of this application is May 26, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $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. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SAILE ACKERMAN LLC
28 DAVIS AVENUE
POUGHKEEPSIE NY 12603

MAILED
APR 04 2011
OFFICE OF PETITIONS

In re Application of :
Horst Knoedgen :
Application No. 12/008,347 : DECISION ON PETITION
Filed: January 10, 2008 :
Attorney Dkt. No. D107-001 :

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. A petition for expedited treatment was filed March 30, 2011.

The petition under 37 CFR 1.182 for expedited treatment is **GRANTED**.
The petition under 37 CFR 1.137(b) is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a restriction requirement mailed June 22, 2010. The Office Action set a one (1) month shortened statutory period for reply. No timely extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on July 23, 2010. A Notice of Abandonment was mailed on January 24, 2011.

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

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

This application is being referred to Technology Center AU 2873 for appropriate action by the Examiner in the normal course of business on the reply received

/Charlema Grant/
Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RICHARD D. MULTER
50 West Rose Nye Way
Shelton WA 98584

MAILED

DEC 19 2011

OFFICE OF PETITIONS

In re Application of
Steven C. Sims et al.
Application No. 12/008,391
Filed: January 9, 2008
Attorney Docket No. **2053-118A**

DECISION ON PETITION

This is a decision on the petition, filed November 21, 2011, captioned as "REQUEST FOR WITHDRAWAL" 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 final Office action mailed January 26, 2011, which set a three (3) months shortened statutory period for reply. A Notice of Abandonment was mailed on August 10, 2011.

Petitioner asserts that the Notice dated January 26, 2011, was not received.

A review of the written record indicates no irregularity in the mailing of the final Office action of January 26, 2011, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

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

number, attorney docket number, the mail date of the Office action and the due date for the response.

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

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

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

The petition fails to satisfy item (3) of the above-stated requirements.

Therefore, petitioner needs to submit a copy of the **master docket** report **for the entire firm** showing **all** replies docketed **for a date** of three months from January 26, 2011, mail date of the nonreceived Office action as documentary proof of nonreceipt.

Accordingly, absent the required evidence to establish nonreceipt of the Office action of January 26, 2011, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

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

37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the petition fee required under 37 CFR 1.17(m).

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

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

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

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

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

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

/ Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RICHARD D. MULTER
2529 14TH AVENUE CT
GREELEY, CO 80631

MAILED
FEB 01 2012
OFFICE OF PETITIONS

In re Application of
Steven C. Sims, et al.
Application No. 12/008,392
Filed: January 9, 2008
Attorney Docket No. 2053-117A

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from application where the requesting practitioners is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to the documents they file.

A review of the file record indicates that Richard D. Multer does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

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

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

cc: STEVEN SIMS
50 W. ROSE NYE WAY
SHELTON, WA 98584

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 12 2010

OFFICE OF PETITIONS

Quine Intellectual Property Law Group, P.C.
P.O. Box 458
Alameda, CA 94501

In re Application of	:	
Xuelu Wang et al.	:	
Application No. 12/008,398	:	DECISION ON PETITION
Filed: January 9, 2008	:	TO WITHDRAW
Attorney Docket No. 95-000610US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 18, 2010.

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

A review of the file record indicates that the power of attorney to all attorneys/agents associated with customer number 20350 have been revoked by the assignee of the patent application on September 17, 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 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: Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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.
12/008,408	01/10/2008	Naoki Kawasaki	4041P-000099	9478

27572 7590 06/13/2011
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER
NGUYEN, THUONG

ART UNIT	PAPER NUMBER
2452	

MAIL DATE	DELIVERY MODE
06/13/2011	PAPER

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

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

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JUN 10 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

In re Application of: KAWASAKI, Noaki
Application No. **12/008,408**
Filed: January 10, 2008
Atty Docket No. 4041P-000099
Title: APPARATUS FOR DETERMINING THE PRESENCE OF FOG USING IMAGE OBTAINED BY VEHICLE-MOUNTED IMAGING DEVICE

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

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed **March 09, 2011**, to make the above-identified application special.

The petition is **GRANTED.**

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

(1) The U.S. application is
(a) a Paris Convention application which either (i) validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more applications filed in the JPO, or (ii) validly claims priority to a PCT application that contains no priority claims, or
(b) a national stage application under the PCT (an application which entered the national stage in the U.S. from a PCT international application after compliance with 35 U.S.C. 371), which PCT application (i) validly claims priority to an application filed in the JPO, or (ii) validly claims priority to a PCT application that contains no priority claims, or (iii) contains no priority claim, or
(c) a so-called bypass application filed under 35 U.S.C. 111 (a) which validly claims benefit under 35 U.S.C. 120 to a PCT application, which PCT application (i) validly claims priority to an application filed in the JPO, or (ii) validly claims priority to a PCT application that contains no priority claims, or (iii) contains no priority claim.

Where the JPO application that contains the allowable/patentable claims is not the same application for which priority is claimed in the U.S. application, applicant must identify the relationship between the JPO application that contains the allowable/patentable claims and the JPO priority application claimed in the U.S. application;

(2) Applicant must submit a copy of:
a. The allowable/patentable claim(s) from the Japanese application(s);
b. An English translation of the allowable/patentable claim(s), if the claims were published in a language other than English); and
c. A statement that the English translation is accurate;

(3) Applicant must:
a. Ensure that all the claims in the U.S. application sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s) and
b. Submit a claim correspondence table in English;

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

(5) Applicant must submit:
a. A copy of all the office action(s) (which are relevant to patentability), excluding "Decision to Grant a Patent" from each of the Japanese application(s) containing the allowable/patentable claim(s);
b. An English language translation of the JPO office action(s) (if the office action(s) are not in the English language); and
c. A statement that the English translation is accurate;

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

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

Telephone inquiries concerning this decision should be directed to Beatriz Prieto at 571-272-3902. All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

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

/Beatriz Prieto/

Beatriz Prieto
Quality Assurance Specialist
Technology Center 2400

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/008,437	01/11/2008	Vidal Benatar	SERVIER 530	9891

25666 7590 06/30/2011
THE FIRM OF HUESCHEN AND SAGE
SEVENTH FLOOR, KALAMAZOO BUILDING
107 WEST MICHIGAN AVENUE
KALAMAZOO, MI 49007

EXAMINER
CORNET, JEAN P

ART UNIT	PAPER NUMBER
1628	

MAIL DATE	DELIVERY MODE
06/30/2011	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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JUN 30 2011

THE FIRM OF HUESCHEN AND SAGE
SEVENTH FLOOR, KALAMAZOO BUILDING
107 WEST MICHIGAN AVENUE
KALAMAZOO MI 49007

: PETITION DECISION

In re Application of:
Benatar et al.
Serial No.: 12/008,437
Filed: January 11, 2008
Attorney Docket No.: **SERVIER 530**

This is in response to the petition under 37 CFR § 1.181, filed June 6, 2011, requesting that the finality of the Office action of March 29, 2011 be withdrawn.

BACKGROUND

Relevant parts of the prosecution history are summarized below.

Recently, the examiner mailed a final Office action on March 29, 2011 setting a three month shortened statutory period for reply. In this Office action, claims 1-5 were pending and were rejected. Specifically, claims 1-5 continued to be rejected under 35 U.S.C. 103(a) as being unpatentable over Wuthrich et al. in view of Tardif et al. Claims 1-4 continued to be rejected under 35 USC 102 (b) as anticipated by Tardif et al.

In reply to the final Office action of March 29, 2011, applicants filed this petition under 37 CFR § 1.181 on June 6, 2011, requesting that the finality of the Office action of March 29, 2011 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

Applicants argue that "in order for a reference to qualify as prior art under 35 USC § 102(b) (and represent a statutory bar to patentability), the reference must be published one (1) year prior to

the filing date of the application against which it is cited. The priority date for the instant application, as reported in the Application Data Sheet of record in the file of the instant application, is January 11, 2007." Applicants also argue "In view of the Office's improper rejection under 35 USC § 102(b) and repeated disregard of the Applicants' priority claim, the Applicants respectfully request withdrawal of the Finality of the instant Office Action and, upon favorable review, reinstatement of non-final status should any insignificant obstacles to patentability remain."

Applicants' arguments have been accorded careful consideration but they are not persuasive. Applicants should note that an argument to the merits of a rejection is not a petitionable matter but an appealable one. Note the following rule:

> § 1.181 Petition to the Director.
> (a) Petition may be taken to the Director:
> (1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

It is noted that applicants' argument in the instant petition is not directed to an action or requirement of the examiner but is directed solely to the merits of the rejections maintained by the examiner. Specifically, applicants do not agree with the examiner's rejections over the claims. It is deemed that a *clear issue for appeal* between the examiner and applicants regarding the status of the claimed invention and reasons why the claims are currently rejected has been established. Applicants are reminded of the right to the Appeal process concerning substantive issues involving the rejection of claims; see 37 CFR 1.191.

Accordingly, applicants' arguments are not persuasive that the final Office action issued March 29, 2011 was premature and the finality of the Office action will not be withdrawn.

DECISION

The petition is **DENIED**. .

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

On a further note, applicants should take note of MPEP 706, specifically part (C) as follows:

"102(b)
VI. < DETERMINING THE EFFECTIVE FILING DATE OF THE APPLICATION
The effective filing date of a U.S. application may be determined as follows:
(A) If the application is a continuation or divisional of one or more earlier U.S. applications or international applications and if the requirements of 35 U.S.C.

120 and 365(c), respectively, have been satisfied, the effective filing date is the same as the earliest filing date in the line of continuation or divisional applications.
(B) If the application is a continuation-in-part of an earlier U.S. application or international application, any claims in the new application not supported by the specification and claims of the parent application have an effective filing date equal to the filing date of the new application. Any claims which are fully supported under 35 U.S.C. 112 by the earlier parent application have the effective filing date of that earlier parent application.
(C) If the application claims foreign priority under 35 U.S.C. 119(a)-(d) or 365(a) or (b), the effective filing date is the filing date of the U.S. application, unless situation (A) or (B) as set forth above applies. The filing date of the foreign priority document is not the effective filing date, although the filing date of the foreign priority document may be used to overcome certain references. See MPEP § 706.02(b) and § 2136.05

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

Remy Yucel
Director, Technology Center 1600

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LEONARD TACHNER, A PROFESSIONAL LAW CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE, CA 92614

MAILED
MAR 10 2011
OFFICE OF PETITIONS

In re Application of :
Douglas J. Toth :
Application No. 12/008,458 : ON PETITION
Filed: January 11, 2008 :
Attorney Docket No. ATOMIC-27 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 16, 2010, to revive the above-identified application.

The application was held abandoned for failure to file an appeal brief and fee within two months from the filing of the Notice of Appeal on May 12, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief with the $270 fee (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

As authorized, the appeal brief fee of $270 has been charged to petitioner's deposit account.

This application file is being referred to Technology Center Art Unit 3672 for review of the response filed with the present petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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Acuity Law Group, P.C.
12707 High Bluff Drive
Suite 200
San Diego CA 92130-2037

MAILED
DEC 15 2011
OFFICE OF PETITIONS

In re Application of
Cole
Application No 12/008,557
Filed: January 11, 2008
Attorney Docket No. RJC-002

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 7, 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 June 6, 2011. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is September 7, 2011. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $465.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $930.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR §10.18(b). In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional, petitioner must notify the Office.

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 $635 extension of time fee submitted on December 7, 2011 was subsequent to the maximum extendable period for reply, the fees will be refunded.

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

This application is being referred to Technology Center AU 3637 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Charlema Grant

Charlema Grant
Attorney Advisor
Office of Petitions

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Alexandria, VA 22313-1450
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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED
AUG 25 2011
OFFICE OF PETITIONS

In re Application of :
Dzau, et al. :
Application No. 12/008,583 : ON PETITION
Filed: January 11, 2008 :
Attorney Docket No. 35327-002D01US

This is a decision on the petition under 37 CFR 1.137(b), filed August 15, 2011, to revive the above-identified application.

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

The above-identified application became abandoned for failure to file a proper reply to the second non-final Office action mailed February 26, 2010, which set a shortened statutory period for reply of three (3) months from its mailing date. A Notice of Abandonment was mailed August 13, 2010.

The Request for Continued Examination and amendment filed August 15, 2011, are noted.

The request for an extension of time within the third month is noted, but cannot be granted because the request was made outside the maximum statutory period for reply to the Office action. The amount of $555.00 will be refunded, in due course.

The application file is being forwarded to Technology Center, GAU 1647 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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TREX ENTERPRISES CORP.
10455 PACIFIC COURT
SAN DIEGO CA 92121

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Tzu-Chiang Hsieh	:	
Application No. 12/008,585	:	DECISION ON PETITION
Filed: January 11, 2008	:	
Attorney Docket No. 816	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 8, 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 9, 2009. A Notice of Abandonment was mailed November 19, 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 $810.00, and (3) an adequate statement of unintentional delay.

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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MATLOCK LAW GROUP, PC
1485 TREAT BLVD.
SUITE #200
WALNUT CREEK, CA 94597

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DEC 15 2010

OFFICE OF PETITIONS

In re Application of
Frankie Holtz-Davis, et al.
Application No. 12/008,615
Filed: January 10, 2008
Attorney Docket No.: 014HF-002

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for a failure to timely respond to a Notice to File Corrected Application Papers mailed February 11, 2008. A Notice of Abandonment was mailed on October 20, 2008. On October 20, 2010, the present petition was filed.

While this application has been abandoned for an extended period of time, the U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

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

Petitioner is reminded that the grant of a petition under 37 CFR **1.137** is not a determination that any reply is complete, since the petition may be granted if the reply appears to be *bona fide*. After revival of the application, the Office of Patent Application Processing (OPAP) may, upon more detailed review, determine that the reply is lacking in some respect. In this limited situation, OPAP should send out a letter giving shortened statutory period under **37 CFR 1.135(c)** for correction of the error or omission. Extensions of time under 37 CFR **1.136(a)** are permitted. If applicant does not correct the omission within the time period set in the letter (including any extension), the application is again abandoned.

The application is being referred to the Office of Patent Application Processing (OPAP) for consideration of the response filed October 20, 2010.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at OPAP should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

In re Application of:	:	LETTER REGARDING
Harbeson	:	PATENT TERM ADJUSTMENT
Application No. 12/008,698	:	
Filed: January 11, 2008	:	
Attorney Docket No. 1451.1037-001	:	
Title: ENDOTHELIN RECEPTOR ANTAGONISTS	:	

This is in response to the petition pursuant to 37 C.F.R. § 1.705(b) filed October 18, 2011. Applicant requests an adjustment of the initial patent term adjustment from 472 days to 346 days, a reduction of 126 days.

The request for reconsideration of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **three hundred and forty-six (346)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 22, 2011, 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 472 days. The present application for patent term adjustment was timely filed[1] on or before payment of the issue

1 PALM records indicate that the issue fee was submitted concurrently with the filing of this petition.

fee. Applicant argues that one additional period of applicant delay should have been assessed.

37 C.F.R. § 1.704(b) sets forth, *in toto*:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

On February 5, 2008, the Office mailed a Notice to File Missing Parts of Nonprovisional Application. A response was received three months and 126 days later on September 8, 2008. Applicant argues that this warrants a 126-day reduction, pursuant to 37 C.F.R. § 1.704(b). A review of the record shows this assertion to be accurate. See also MPEP § 2732.[2]

A reduction of 126 days has been added.

In view thereof, the revised patent term adjustment is 346 (562 - 216) **days.**

---

[2] "The three-month period in 37 CFR 1.704(b) applies to the Office notices and letters issued as part of the pre-examination processing of an application (except a Notice of Omitted Items in a Nonprovisional Application as discussed above). These notices include: (1) a Notice of Incomplete Nonprovisional Application (except as to any period prior to the filing date ultimately accorded to the application); (2) a Notice to File Missing Parts of Non-Provisional Application (emphasis added); (3) a Notice of Informal Application; (4) a Notice to File Corrected Application Papers Filing Date Granted; or (5) a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures."

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 Office of Patent Publication will be notified of this decision so that the present application can be processed into 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) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Copy of the Revised Patent Term Adjustment

PALM Resource Center

PALM Explorer

- PALM
  - General Information
  - Employee Locator
  - Examiner Docket
  - Count Calculator
  - Petition Docket Report
  - IDS Flag Clearance
  - Bib Data Sheet
  - Case Action
  - Incoming Correspondence
  - TSS Activity Record
  - eRF Mailing
  - Petitions
  - Application Information
    - General Information
    - Assignments
    - Biotech Information
    - First Action
    - PTA/PTE Info
    - IFW Reference Manager
    - Interference and Appeals
    - Application History
    - National Stage Application Parer
    - WIPO Publication Data
    - PCT Barcode
  - Search
  - RAM
  - Reference
  - File/Box Management
  - Dispatch and Receive

PTA/PTE Information Patent Term Adjustment Patent Term Extension

Application Number*: 12008698 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 12008698

Application Filing Date	01/11/2008	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	562
A Delays	562	PTO Manual Adjustment	-126
B Delays	0	Applicant Delay (APPL)	90
C Delays	0	Total PTA (days)	346

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
73	10/26/2011		P028	Adjustment of PTA Calculation by PTO		126	0
72	10/26/2011		P028	Adjustment of PTA Calculation by PTO		126	0
71	10/26/2011		P028	Adjustment of PTA Calculation by PTO	126		0
64	07/22/2011		MN/=.	Mail Notice of Allowance			0
63	07/22/2011		OAR	Office Action Review			0
62	07/22/2011		OAR	Office Action Review			0
61	07/22/2011		IREV	Issue Revision Completed			0
60	07/22/2011		N/=.	Notice of Allowance Data Verification Completed			0
59	07/22/2011		DOCK	Case Docketed to Examiner in GAU			0
58	07/22/2011		DVER	Document Verification			0
57	07/21/2011		EX.A	Examiner's Amendment Communication			0
56	07/21/2011		CNTA	Allowability Notice			0
54	07/19/2011		FWDX	Date Forwarded to Examiner			0
55	07/13/2011		IDSC	Information Disclosure Statement considered			0
53	07/13/2011		A.NE	Amendment after Final Rejection			0
52	07/13/2011		M844	Information Disclosure Statement (IDS) Filed			0
51	07/13/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
50	06/02/2011		MCTFR	Mail Final Rejection (PTOL - 326)			0
49	06/01/2011		OAR	Office Action Review			0
48	05/31/2011		CTFR	Final Rejection			0
46	03/30/2011		FWDX	Date Forwarded to Examiner			0
47	03/24/2011		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
45	03/24/2011	12/24/2010	A...	Response after Non-Final Action		90	43
44	03/24/2011		XT/G	Request for Extension of Time - Granted			0
43	09/24/2010	03/11/2009	MCTNF	Mail Non-Final Rejection	562		0.5
42	09/24/2010		CTNF	Non-Final Rejection			0
35	06/07/2010		IDSC	Information Disclosure Statement considered			0
32	06/07/2010		M844	Information Disclosure Statement (IDS) Filed			0
31	06/07/2010		M844	Information Disclosure Statement (IDS) Filed			0
28	06/07/2010		WIDS	Information Disclosure Statement (IDS) Filed			0

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT A. KENT
P.O. BOX 1431
DUNCAN OK 73536

MAILED

SEP 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Nguyen et al.	:	
Application No. 12/008,757	:	DECISION ON PETITION
Filed: January 14, 2008	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2006-IP-020628U1	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 27, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1) above.

The amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 36 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority) must commence on a separate physical sheet. 37 CF 1.4(c) states that each distinct subject, inquiry or order must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, the amendment to add a priority claim to the first line of the specification, which is physically embedded in the instant petition, is not acceptable. Accordingly, a substitute

amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3), must be submitted.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT A. KENT
P.O. BOX 1431
DUNCAN OK 73536

MAILED

OCT 19 2010

OFFICE OF PETITIONS

In re Application of	:
Nguyen et al.	:
Application No. 12/008,757	: DECISION GRANTING PETITION
Filed: January 14, 2008	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2006-IP-020628U1	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 28, 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 Application Data Sheet (ADS) filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional 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 applications have been included in an ADS, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 3676 for appropriate action on the ADS filed September 28, 2010, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
12/008,757	01/14/2008	3676	1030	2006-IP-020628U1	20	2

CONFIRMATION NO. 2216

CORRECTED FILING RECEIPT

71407
ROBERT A. KENT
P.O. BOX 1431
DUNCAN, OK 73536

OC000000044012673

Date Mailed: 10/15/2010

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)

Philip D. Nguyen, Duncan, OK;
Earl D. Webb, Wilson, OK;

Assignment For Published Patent Application

Halliburton Energy Services, Inc.

Power of Attorney:

John Booth Sr--25325
Robert Kent--28626
William Shull--29438
John Wustenberg--35415
Craig Roddy--36256
Todd Albanesi--36426
Paul Herman--37349

Domestic Priority data as claimed by applicant

This application is a CIP of 11/355,042 02/15/2006 PAT 7,413,010
which is a CIP of 10/863,706 06/08/2004 PAT 7,114,560 *
which is a CIP of 10/601,407 06/23/2003 PAT 7,025,134
(*)Data provided by applicant is not consistent with PTO records.

Foreign Applications

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 12/008,757**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Methods for injecting a consolidation fluid into a wellbore at a subterranian location

Preliminary Class

166

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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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/008,764	01/14/2008	Cameron C. McIntyre	12637/162	2197

7590 11/17/2010
KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

EXAMINER
MEHTA, PARIKHA SOLANKI

ART UNIT	PAPER NUMBER
3737	

MAIL DATE	DELIVERY MODE
11/17/2010	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

November 17, 2010

KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

In re Application of	:	
Mcintyre, Cameron C. et al	:	**DECISION ON PETITION**
Application No. 12/008,764	:	
Filed: 01/14/2008	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 12637/162	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) January 14, 2008.

The petition is **GRANTED**.

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

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

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

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

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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BENJAMIN AARON ADLER
ADLER & ASSOCIATES
8011 CANDLE LANE
HOUSTON TX 77071

MAILED
FEB 11 2011
OFFICE OF PETITIONS

In re Application:	:	
Shaughnessy et al.	:	
Application No. 12/008,771	:	ON PETITION
Filed: January 14, 2008	:	
Attorney Docket No. D6485CIP3	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed January 10, 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

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

January 10, 2012

Benjamin Aaron Adler
ADLER & ASSOCIATES
8011 Candle Lane
Houston TX 77071

Re Application of
SHAUGHNESSY, JOHN D. JR. , Et Al
Application: **12/008771**
Filed: **01/14/2008**
Attorney Docket No: **D6485CIP3**

: **DECISION ON PETITION**
: **ACCEPTANCE OF COLOR**
: **DRAWINGS**

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) July 9, 2008.

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

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

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

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

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

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAILED
FEB 03 2011
OFFICE OF PETITIONS

RICHARD L. BIGELOW
203 TREMONT STREET
NEWINGTON, CT 06111

In re Application of
Warren M. Schur
Application No. 12/008,794
Filed: January 14, 2008
Attorney Docket No.: WMS-05-001

ON PETITION

This is a decision in response to the petition, filed November 19, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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. However, in accordance with 37 CFR 1.34(a), the signature of Richard L. Bigelow appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed May 29, 2009. A Notice of Abandonment was mailed on January 22, 2010. On November 19, 2010, the present petition was filed.

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

This application is being referred to Technology Center AU 3781 for appropriate action by the Examiner in the normal course of business on the reply received November 19, 2010.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
12/008,856	01/15/2008	Faud Khan	LUTZ 200567US01	2301

48116 7590 09/30/2011
FAY SHARPE/LUCENT
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115-1843

EXAMINER
AFOLABI, MARK O

ART UNIT	PAPER NUMBER
2454	

MAIL DATE	DELIVERY MODE
09/30/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Fay Sharpe/Lucent
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland OH 44115-1843

In re Application of:
Khan et al.
Application No. 12/008856
Filed: January 15, 2008
For: Method and Apparatus for Fingerprinting Systems and Operating Systems in a Network

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed June 29, 2011 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the claim objections.

The petition is **Granted**.

On June 29, 2011, applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the Examiner in relation to the claim objection in the Final Office action mailed April 1, 2011.

A review of the record indicates that on April 1, 2011, the office action states that claims 1, 9, and 14 are objected to for farmalities because the use of 'if' without reciting what would happen when the if wasn't satisfied.

As this is a question of breath and not claim clarity nor a formality the objection is hereby withdrawn.

Accordingly, the petition is **Granted.**

Any inquiry concerning this decision should be directed to Tod Swann at (571) 272-3612.

/Tod Swann/
Tod Swann, QAS
Technology Center 2400
Computer Architecture, Software, and
Information Security

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.
12/008,872	01/15/2008	Shigeyoshi Umemiya	1924.79808	2323

7590 11/04/2010

GREER, BURNS & CRAIN
300 S WACKER DR
25TH FLOOR
CHICAGO, IL 60606

EXAMINER
DAVIS, DAVID DONALD

ART UNIT	PAPER NUMBER
2627	

MAIL DATE	DELIVERY MODE
11/04/2010	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.

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/6/2012

TO SPE OF : ART UNIT 2629 - Eisen Alexander (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 12/008916 Patent No.: 8059105

CofC mailroom date: _____

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

Certificates of Correction Branch

571-272-8680

Thank You For Your Assistance

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

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

Comments: _____

APPROVED
By aeisen at 2:10 pm, Apr 05, 2012

/ALEXANDER EISEN/
SPE

2629
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/008,958	01/15/2008	Manuel Borca	0054.08	2768

7590 11/10/2011
USDA, ARS, OTT
5601 SUNNYSIDE AVE
RM 4-1159
BELTSVILLE, MD 20705-5131

EXAMINER
LI, BAO Q

ART UNIT	PAPER NUMBER
1648	

MAIL DATE	DELIVERY MODE
11/10/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request for a corrected notice of allowance/allowability, dated _____, has been received by the U.S.Patent and Trademark Office. A corrected notice of allowance/allowability will not be mailed, but the Office has verified the following information, and made any necessary corrections to Office database:

- **The allowed claims are:**

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

FORM PTOM327-1 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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November 9, 2011

USDA, ARS, OTT
5601 SUNNYSIDE AVE
RM 4-1159
BELTSVILLE MD 20705-5131

In re Application of	:	
Borca, Manuel. et,al	:	**DECISION ON PETITION**
Application No. 12/008,958	:	
Filed: 01/15/2008	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 0054.08	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) January 15, 2008

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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/008,967	01/15/2008	Mitsuyo Oomura	4041J-001400	2546

27572 7590 05/11/2011
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER
FORD, JOHN K

ART UNIT	PAPER NUMBER
3784	

MAIL DATE	DELIVERY MODE
05/11/2011	PAPER

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

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

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

In re Application of: OOMURA, MITSUY O Serial No.: 12/008,967 Filed: Jan. 15, 2008 Docket: 4041J-001400 Title: AIR CONDITIONER FOR VEHICLE	::	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY (PPH) 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 May 9, 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 corresponding application(s) filed in the JPO or to a PCT application that does not contain any priority claim, or the U.S. application must be a national stage entry of a PCT application that does not contain any priority claim;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate; and
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications.

In light of the petition being properly submitted, the request to participate in the PPH program and the petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

The applicant is encouraged to cite and submit all relevant prior art references, if any, to facilitate examination in this application.

Other inquiries concerning the examination or status of the application should be directed to Frantz Jules, the SPE of Art Unit 3784 at 571-272-6681 for Class 165/202 and also accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

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

This application will be forwarded and docketed to an examiner for action on the merits commensurate with this decision.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen, at 571-272-4856.

The petition is **granted.**

/Henry C. Yuen/

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Virtual Law Partners LLP
555 Bryant Street
Suite 820
Palo Alto CA 94301

Re Application of
HOLMES, RICHARD, ET AL.
Application: **12/008997**
Filed: **01/14/2008**
Attorney Docket No: **0806-00-006U01**

: DECISION ON PETITION
: ACCEPTANCE OF COLOR
: DRAWINGS

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) December 01, 2008.

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

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

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

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

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

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

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MAILED

DEC 14 2010

OFFICE OF PETITIONS

Ingrid A. Beattie
Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.
One Financial Center
Boston MA 02111

In re Application of	:	
Nakamura et al.	:	
Application No. 12/009,075	:	ON APPLICATION FOR
Filed: January 16, 2008	:	PATENT TERM ADJUSTMENT
Docket No. 25371-021 D01 US	:	

This decision is in response to the "APPLICATION FOR ADJUSTMENT OF PATENT TERM UNDER 37 CFR §1.705(b)," filed October 8, 2010. Applicants request the PTA determination for the above-identified application be corrected to three hundred twenty-nine (329) days.

The request for review of the determination of patent term adjustment (PTA) is **granted to the extent indicated herein**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is **two hundred thirty-eight (238)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 9, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 267 days. On October 8, 2010, applicants submitted the instant petition in which applicants dispute the reduction of 62 days of PTA for applicants' delay in filing a supplemental response on April 1, 2010. Applicants state that the response was filed at the request of the examiner and, therefore, no reduction is warranted.

Applicants' argument is well-taken. A Restriction Requirement was mailed on December 29, 2009. The record supports a conclusion that after applicants timely filed an election on

January 29, 2010, Examiner Yao requested that applicants file a supplemental reply. (See Notice of Allowability and Examiner-Initiated Interview Summary, both mailed July 9, 2010.) Therefore, the April 1, 2010 supplemental reply was expressly requested by the examiner, within the meaning of § 1.704(c)(8). Accordingly, no reduction is warranted. The 62 day period of reduction is being removed.

A review of the patent term adjustment calculations for the above-identified application reveals that the Office failed to enter a reduction for the October 20, 2008 reply to the Notice to File Corrected Papers, mailed April 21, 2008. Pursuant to 37 CFR 1.704(b), a period of reduction of 91 days should have been entered in connection with the October 20, 2008 reply to the Notice to File Corrected Papers, mailed April 21, 2008.

37 CFR 1.704(b) provides that:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

In this instance, applicants failed to engage in reasonable efforts to conclude processing of the application by failing to reply to the Notice to File Corrected Papers, mailed April 21, 2008, within the three-month period provided for in 37 CFR 1.704(b). Applicants did not file a response until October 20, 2008. Accordingly, a period of reduction of 91 days is being entered for the period beginning on July 22, 2008, the day after the date that is three months after the date of mailing of the

Notice, and ending on October 20, 2008, the date applicants' reply was filed.

In view thereof, the correct patent term adjustment at the time of mailing of the Notice of Allowance on July 9, 2010 is **two hundred thirty-eight (238) days** (329 days Office delay minus 91 days Applicant delay).

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen for U.S. Application No. 12/009,075

Patent eBusiness

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- Patent Application Information (PAIR)
- Patent Ownership
- Fees
- Supplemental Resources & Support

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- Trademarks
- Policy & Law
- Reports

Patent Application Information Retrieval

Order Certified Application As Filed | Order Certified File Wrapper | View Order List

12/009,075 HEPATOCELLULAR CARCINOMA-RELATED GENES AND POLYPEPTIDES, AND METHOD FOR DETECTING HEPATOCELLULAR CARCINOMAS

Select New Case | Application Data | Transaction History | Image File Wrapper | Patent Term Adjustments | Continuity Data | Foreign Priority | Published Documents | Address & Attorney/Agent | Supplemental Content

Patent Term Adjustment

Filing or 371(c) Date:	01-16-2008	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	329
A Delays:	329	PTO Manual Adjustments:	-29
B Delays:	0	Applicant Delays:	62
C Delays:	0	Total PTA Adjustments:	238

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
64	12-14-2010	Adjustment of PTA Calculation by PTO		29	0
49	07-09-2010	Mail Notice of Allowance	41		30
48	05-12-2010	Issue Revision Completed			0
47	05-12-2010	Document Verification			0
46	05-06-2010	Allowed Case Returned to the Examiner for Clerical Processing			0
45	05-06-2010	Examiner's Amendment Communication			0
44	05-06-2010	Notice of Allowance Data Verification Completed			0
43	05-06-2010	Case Docketed to Examiner in GAU			0
42	05-06-2010	Notice of Allowability			0
38	04-16-2010	Date Forwarded to Examiner			0
37	04-01-2010	Supplemental Response		62	30
35	01-16-2008	Information Disclosure Statement considered			0
34	04-08-2008	Information Disclosure Statement considered			0
33	04-17-2008	Information Disclosure Statement considered			0
32	12-30-2009	Information Disclosure Statement considered			0
31	02-27-2010	Date Forwarded to Examiner			0
30	01-29-2010	Response to Election / Restriction Filed			0
29	01-29-2010	Preliminary Amendment			0
28	12-30-2009	Reference capture on IDS			0
27	12-30-2009	Information Disclosure Statement (IDS) Filed			0
26	12-30-2009	Information Disclosure Statement (IDS) Filed			0
25	12-29-2009	Mail Restriction Requirement	288		-1
24	12-22-2009	Requirement for Restriction / Election			0
23	02-05-2009	PG-Pub Issue Notification			0
22	04-17-2008	Information Disclosure Statement (IDS) Filed			0

21	04-08-2008	Information Disclosure Statement (IDS) Filed	0
20	01-16-2008	Preliminary Amendment	0
19	01-16-2008	Information Disclosure Statement (IDS) Filed	0
18	12-06-2008	Case Docketed to Examiner in GAU	0
17	12-06-2008	IFW TSS Processing by Tech Center Complete	0
16	11-05-2008	Application Dispatched from OIPE	0
15	10-28-2008	Sent to Classification Contractor	0
14	10-28-2008	Filing Receipt - Updated	0
13	10-20-2008	Additional Application Filing Fees	0
12	10-20-2008	Applicant has submitted new drawings to correct Corrected Papers problems	0
11	04-17-2008	Information Disclosure Statement (IDS) Filed	0
10	04-21-2008	Filing Receipt	0
9	04-21-2008	Corrected Paper	0
8	04-08-2008	Information Disclosure Statement (IDS) Filed	0
7	02-15-2008	CRF Is Good Technically / Entered into Database	0
6	02-01-2008	Cleared by OIPE CSR	0
5	02-01-2008	Cleared by OIPE CSR	0
4	01-28-2008	IFW Scan & PACR Auto Security Review	0
3	01-16-2008	Information Disclosure Statement (IDS) Filed	0
2	01-16-2008	CRF Disk Has Been Received by Preexam / Group / PCT	0
1	01-17-2008	Initial Exam Team nn	0

If you need help:

- *Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail EBC@uspto.gov for specific questions about Patent Application Information Retrieval (PAIR).*
- *Send general questions about USPTO programs to the USPTO Contact Center (UCC) .*
- *If you experience technical difficulties or problems with this application, please report them via e-mail to Electronic Business Support or call 1 800-786-9199.*

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NORMAN FRIEDLAND
2855 PGA BOULEVARD
SUITE 200
PALM BEACH GARDENS FL 33410

MAILED

AUG 2 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael B. Flaherty	:	
Application No. 12/009,092	:	ON PETITION
Filing: January 16, 2008	:	
Attorney Docket No. N1329	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 7, 2010, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement (PTO/SB/130 form) by applicant's attorney that applicant is 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

This matter is being referred to the Technology Center Art Unit 3743 for action on the merits commensurate with this decision.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHARLES R. SUTTON,
LAW OFFICES OF ROGER C. HSU
201 S. LAKE AVE., STE.,600
PASADENA CA 91101

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of:	:	
KINSEY	:	DECISION ON
Application No.: 12/009,139	:	REQUEST
Filed: January 16, 2008	:	
Attorney Docket No.: 10129C	:	

This is a decision on the Request, filed September 10, 2010, which has been treated as a Request for acceptance of a correctly numbered specification, claims, and Abstract sheets.

The correctly numbered specification, claims and Abstract sheets, submitted September 10, 2010, are **ACCEPTED**.

In view of the circumstances surrounding this application, the Office hereby accepts the correctly numbered sheets submitted September 10, 2010, which render the application acceptable for publishing. Applicant states that no new matter has been added.

The application is being directed to the Office of Data Management for continued post allowance processing.

Brian W. Brown
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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JENNIFER L. BOWERS BAHNEY
574 WOODLAND DR.
CIRCLEVILLE OH 43113

MAILED

JUL 15 2011

OFFICE OF PETITIONS

In re Application of

Bowers

Application No. 12/009,155

Filed: January 17, 2008

Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed June 17, 2011.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on January 29, 2011, after it was believed that no timely response was received to the non-final Office action mailed October 28, 2010. The notice allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on June 14, 2011, indicating that a reply to the notice was not timely received.

A review of the application file record did reveal that a response to the non-final Office action was filed on February 1, 2011, with a request for an extension of time within the first month being paid on February 15, 2011. The extension of time within the first month under 37 CFR 1.136(a) extended the period for reply to the non-final Office action through February 28, 2011. Based on the aforementioned, it appears that the application was improperly held abandoned as a response was received prior to expiration of the statutory period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded Technology Center 1600, GAU 1651, for further processing, including processing of the response to the non-final Office action which was filed February 1, 2011.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : April 28,2011

In re Application of :

Yuichiro Suzuki

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 12009189

Filed : 17-Jan-2008

Attorney Docket No : 407526.119640

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

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 2854 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	12009189
Filing Date	17-Jan-2008
First Named Inventor	Yuichiro Suzuki
Art Unit	2854
Examiner Name	MARISSA FERGUSON SAMRETH
Attorney Docket Number	407526.119640
Title	TAPE PRINTING APPARATUS AND COMPUTER-READABLE RECORDING MEDIUM STORING TAPE PRINT PROGRAM

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	/Robert L. Norton/
Name	Robert L. Norton
Registration Number	62082

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

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SEP 01 2011
OFFICE OF PETITIONS

In re Application of	:	
Masamichi Asukai et al	:	
Application No. 12/009,201	:	DECISION GRANTING PETITION
Filed: January 17, 2008	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. S1459.70422US00	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 31, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 26, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2613 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/009,212	01/17/2008	Xiangmin Li	01-2713A	3586

24114 7590 05/06/2011
LyondellBasell Industries
Legal IP Department
1221 McKinney Street
One Houston Center
Houston, TX 77010

EXAMINER
KEYS, ROSALYND ANN

ART UNIT	PAPER NUMBER
1621	

NOTIFICATION DATE	DELIVERY MODE
05/06/2011	ELECTRONIC

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

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

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

Patents-US@lyondellbasell.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte XIANGMIN LI,
LAWRENCE M. CANDELA, and MARK A. LIEPA

Application 12/009,212
Technology Center 1600

DECISION ON PETITION

This is a decision on the "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed March 31, 2011 (Petition).

See 75 Fed. Reg. 15,689-90 (Mar. 30, 2010) for authority of the Chief Administrative Patent Judge.

FINDINGS

1. On August 27, 2010, Appellants filed an Appeal Brief.

2. On September 9, 2010, the Board of patent Appeals and Interferences (Board) issued a Notification of Non-Compliant Appeal Brief (37 CFR 41.37). The Notification granted Appellants a period of one month or thirty days, whichever was longer, within which to file a corrected brief, i.e., until October 12, 2010 (October 9, 2010 being a Saturday and October 11, 2010 being a Federal Holiday).

3. On March 24, 2011, the Primary Examiner issued a Notice of Abandonment.

4. On March 31, 2011, Appellants filed the present Petition and an Appeal Brief.

5. In respect to revival of an unintentionally abandoned application, 37 C.F.R. § 1.137(b) provides that:

> (b) *Unintentional.* If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination prosecution terminated under §§ 1.550(d) or 1.957(b) or limited under § 1.957(c), or a lapsed patent. 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.

6. The Petition to Revive filed March 31, 2011, was accompanied by:

(a) an Appeal Brief;

(b) the Petition fee; and

(c) 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."

7. There are no facts known by the Office that would cause the Office to question whether either the abandonment or delay in filing the Petition to Revive was unintentional.

8. Since the application was filed after June 8, 1995, on January 17, 2008, no terminal disclaimer is required.

9. A review of the Appeal Brief filed on March 31, 2011, indicates that it is compliance with 37 C.F.R. § 41.37.

DISCUSSION

As indicated above, Appellants have complied with all of the requirements of a petition under 37 C.F.R. § 1.137(b) for revival of an unintentionally abandoned application.

DECISION

In view of the foregoing, the Petition to Revive is GRANTED and the Appeal Brief of March 31, 2011 will be returned to the Examiner for preparation of an Examiner's Answer.

Merrell C. Cashion, Jr.
Case Management Administrator

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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DISNEY ENTERPRISES
C/O FARJAMI & FARJAMI LLP
26522 LA ALAMEDA AVENUE, SUITE 360
MISSION VIEJO CA 92691

MAILED

AUG 29 2011

OFFICE OF PETITIONS

In re Application of	:	
Andrew RAPO et al.	:	
Application No. 12/009,227	:	DECISION ON PETITION
Filed: January 17, 2008	:	
Attorney Docket No. 0260137	:	

This is a decision on the petition, filed August 02, 2011, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 05, 2011, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 06, 2011.

Petitioner states that a timely reply was filed via facsimile on April 05, 2011. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing date of April 05, 2011 and a copy of a USPTO facsimile transmission receipt dated April 05, 2011, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of January 05, 2011is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been transmitted by facsimile on April 05, 2011.

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

This application is being referred to Technology Center AU 2628 for appropriate action in the normal course of business on the reply received with petition.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
12/009,234	01/17/2008	Kelli H. Wright	GPK-0802	3755

7590 08/13/2010
ExxonMobil Research and Engineering Company
P. O. Box 900
Annandale, NJ 08801-0900

EXAMINER
HINES, LATOSHA D

ART UNIT	PAPER NUMBER
1797	

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
United States Patent and Trademark Office
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OPAP IAP8 JUL 23 2010 PATENT & TRADEMARK OFFICE

Exxon Mobil Research and Engineering Company
P. O. Box 900
Annandale NJ 08801-0900

MAILED

JUL 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Kelli H. Wright et al.	:	
Application No. 12/009,234	:	DECISION ON PETITION
Filed: January 17, 2008	:	
Attorney Docket No. GPK-0802	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 23, 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 September 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 December 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 $1,620, (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received April 23, 2010.

/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.
12/009,268	01/17/2008	Byung-Gwon Cho	SDISHN.139AUS	3622

7590 08/16/2010
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER
HJERPE, RICHARD A

ART UNIT	PAPER NUMBER
2629	

NOTIFICATION DATE	DELIVERY MODE
08/16/2010	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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GREER, BURNS & CRAIN
300 S WACKER DR
25TH FLOOR
CHICAGO IL 60606

MAILED

AUG 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Frank LAY, et al	:	
Application No. 12/009,271	:	DECISION ON PETITION
Filed: January 17, 2008	:	TO WITHDRAW
Attorney Docket No. 4495.79073	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 19, 2010.

The request is **NOT APPROVED.**

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 an assignee of the entire interest who has properly been made of record under 37 C.F.R 3.71.

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 Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAILED
AUG 15 2011
OFFICE OF PETITIONS

MARTIN E. JERISAT
SUITE 3300
10 S. LASALLE STREET
CHICAGO IL 60603

In re Application of	:	
Warren Brunsting	:	DECISION ON PETITION
Application No. 12/009,286	:	TO WITHDRAW
Filed: January 18, 2008	:	FROM RECORD
Attorney Docket No. 2300	:	

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

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

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

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

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **WARREN BRUNSTING**
C/O HAMMOND SUZUKI USA, INC.
773 ANNORENO DRIVE
ADDISON, IL 60101

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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MARTIN E. JERISAT
SUITE 3300
10 S. LASALLE STREET
CHICAGO, IL 60603

MAILED

SEP 26 2011

OFFICE OF PETITIONS

In re Application of	:	
Warren Brunsting	:	
Application No. 12/009,286	:	DECISION ON PETITION
Filed: January 18, 2008	:	TO WITHDRAW
Attorney Docket No. 2300	:	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 29, 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 on behalf of all attorneys of record. All attorneys/agents associated with 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 Warren Burnsting 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: **Warren Brunsting**
Hammond Suzuki USA, Inc.
783 Annoreno Drive
Addison, IL 60101

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
12/009,286	01/18/2008	Warren Brunsting	2300

CONFIRMATION NO. 3663

POWER OF ATTORNEY NOTICE

MARTIN E. JERISAT
SUITE 3300
10 S. LASALLE STREET
CHICAGO, IL 60603

OC000000049946180

Date Mailed: 09/20/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/29/2011.

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

/tsjohnson/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK NY 10017

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of	:	
WEBB, Scott T.	:	
Application No. 12/009,311	:	DECISION ON PETITION
Filed: January 16, 2008	:	TO WITHDRAW
Attorney Docket No. **208,266**	:	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 **NOT APPROVED**.

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

Accordingly, the request to withdraw from record cannot be approved because the change of address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under C.F.R 3.71, who has properly intervened.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK NY 10017

MAILED

JAN 19 2011

OFFICE OF PETITIONS

In re Application of	:	
WEBB, Scott T.	:	
Application No. 12/009,311	:	DECISION ON PETITION
Filed: January 16, 2008	:	TO WITHDRAW
Attorney Docket No. **208,266**	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 20, 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 C.F.R 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the change of address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under C.F.R 3.71, who has properly intervened.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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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MICHAEL BEST & FRIEDRICH LLP (Mke)
100 E WISCONSIN AVENUE.
Suite 3300
MILWAUKEE, WI 53202

MAILED
APR 09 2012
OFFICE OF PETITIONS

In re Application of	:	
Mitchell A. Delong, et al.	:	
Application No. 12/009,326	:	DECISION GRANTING PETITION
Filed: January 18, 2008	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 017425-9028-00	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 6, 2012, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 6, 2012 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Frank P. Piskolich c/o
Cardiac Concepts, Inc.
12400 Whitewater Drive
Suite 150
Minnetonka MN 55343

MAILED
JUL 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Mark Gelfand, et al.	:	
Application No. 12/009,352	:	DECISION ON PETITION
Filed: January 18, 2008	:	
Attorney Docket No. 4127	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 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, November 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 February 27, 2011. The Notice of Abandonment was mailed June 10, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) an adequate 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 July 8, 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3766 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/009,359	01/18/2008	Byung Heon Lee	SUH 0032 US	5063

67339 7590 03/21/2011
IPHORGAN, LTD.
1130 LAKE COOK ROAD
SUITE 240
BUFFALO GROVE, IL 60089

EXAMINER
JONES, DAMERON LEVEST

ART UNIT	PAPER NUMBER
1618	

MAIL DATE	DELIVERY MODE
03/21/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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March 18, 2011

IPHORGAN, LTD.
1130 LAKE COOK ROAD
SUITE 240
BUFFALO GROVE IL 60089

In re Application of	:	
Byung Heon Lee, et al	:	**DECISION ON PETITION**
Application No. 12009359	:	
Filed: 1/18/08	:	
Attorney Docket No. **SUH 0032 US**	:	

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) February 27, 2008.

The petition is **DISMISSED.**

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

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, (One (1) set for EFW filings, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings

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

The petition did not meet the following requirement(s). 1 ☐ 2 ☑ 3 ☐

A renewed petition filed under 37 C.F.R. 1.84 (a) (2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/009,359	01/18/2008	Byung Heon Lee	SUH 0032 US	5063

7590 05/20/2011

IPHORGAN, LTD.
1130 LAKE COOK ROAD
SUITE 240
BUFFALO GROVE, IL 60089

EXAMINER
JONES, DAMERON LEVEST

ART UNIT	PAPER NUMBER
1618	

MAIL DATE	DELIVERY MODE
05/20/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

May 19, 2011

IPHORGAN, LTD.
1130 LAKE COOK ROAD
SUITE 240
BUFFALO GROVE IL 60089

In re Application of	:	
Byung Heon Lee, et al	:	**DECISION ON PETITION**
Application No. 12009359	:	
Filed: 01/18/2008	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **SUH 0032 US**	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) May 13, 2011.

The petition is **GRANTED**.

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BERGMAN & SONG, LLP
P.O. BOX 400198
CAMBRIDGE, MA 02140

In re Application of	:	
Shengzhong Zhang, et. al.	:	
Application No. 12/009,450	:	ON PETITION
Filed: January 18, 2008	:	
Attorney Docket No. M3000-0001-P003	:	

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

The application became abandoned for failure to timely file a response to the final Office action mailed August 23, 2010. A Notice of Abandonment was mailed 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 a continuing application; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is granted.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 13/065,686.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

January 14, 2011

PERKINS COIE LLP
POST OFFICE BOX 1208
SEATTLE WA 98111-1208

In re Application of	:	
Dongsheng Duan et al.	:	**DECISION ON PETITION**
Application No. 12009537	:	
Filed: 1/18/2008	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 71085.8001.US00	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) January 18, 2008.

The petition is **GRANTED**.

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

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

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

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

/Don Fairchild/
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHWEGMAN LUNDERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

MAILED
MAY 09 2011
ON PETITION
OFFICE OF PETITIONS

In re Application of :
Yoshihiro Kurosu :
Application No. 12/009,562 :
Filed: January 18, 2008 :
Attorney Docket No. 2290.002US1

This is a decision on the petition, filed May 5, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 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 3679 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

W. EDWARD RAMAGE
COMMERCE CENTER SUITE 1000
211 COMMERCE ST
NASHVILLE TN 37201

MAILED
SEP 27 2011
OFFICE OF PETITIONS

In re Application of :
J. Craig OXFORD : ON PETITION
Application No. 12/009,597 :
Filed: January 19, 2008 :
Atty. Docket No.: 103.0

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

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 4, 2011, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned June 5, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the outstanding Office action mailed March 4, 2011, (2) a petition fee of $810, and (3) a statement of unintentional delay. The reply to the outstanding Office action is accepted as being unintentionally delayed.

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

The application will be referred to Technology Center Art Unit 1619 for consideration of the filed Response.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/009,628	01/16/2008	James C. Weatherall	14537	4508

7590 12/27/2011
ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Department
P.O. Box 10064
MCLEAN, VA 22102-8064

EXAMINER
SHRIVASTAV, BRIJ B

ART UNIT	PAPER NUMBER
2858	

NOTIFICATION DATE	DELIVERY MODE
12/27/2011	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

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

1. ☑ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☐ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.
4. ☐ Petition fee was not paid.

The application **has/will be published** as scheduled.

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

Kaletris Buchanan
Patent Publication Branch
Office of Data Management

FORM PET650D (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/009,628	01/16/2008	James C. Weatherall	14537	4508

7590 03/09/2012
ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Department
P.O. Box 10064
MCLEAN, VA 22102-8064

EXAMINER
SHRIVASTAV, BRIJ B

ART UNIT	PAPER NUMBER
2858	

NOTIFICATION DATE	DELIVERY MODE
03/09/2012	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Mimi Farmer

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/30/11

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 12/009,641 Patent No. 7,671,092

CofC mailroom date 3/23/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814

Thank You For Your Assistance

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

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

Comments: _____

/Joseph K. McKane/ 1626

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.
12/009,762	01/22/2008	Phyllis Balbosa	PJB 08019	6068

7590 10/08/2010

James Ray & Associates
2640 Pitcairn Road
Monroeville, PA 15146

EXAMINER
COLLADO, CYNTHIA FRANCISCA

ART UNIT	PAPER NUMBER
3781	

MAIL DATE	DELIVERY MODE
10/08/2010	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.

Best Available Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

James Ray & Associates
2640 Pitcairn Road
Monroeville PA 15146

In re Application of:
BALBOSA, PHYLLIS
Serial No.: 12/009,762
Filed: Jan. 22, 2008

Docket: PJB 08019

DECISION ON PETITION TO WITHDRAW OF FINALITY OF OFFICE ACTION

Title: SANITARY PROTECTIVE COVER FOR APPLIANCE HANDLE

This is a decision on the petition filed on September 27, 2010 to withdraw the finality of the last Office action mailed September 14, 2010 because the examiner failed to treat the preliminary amendment filed on September 7, 2010. The petition is being considered pursuant to 37 CFR § 1.181 and no fee is required for the petition.

The petition is **granted**.

This petition is treated as a request for a complete Office action under MPEP §706.02[1]. In the petition, petitioner argues that the examiner failed to consider the newly added dependent claims 15-19 and the amended withdrawn claims 1-7 and 10-14. The examiner also failed to consider and address the applicant's teaching away arguments as presented on pages 11-12 of the preliminary amendment filed on September 7, 2010. Therefore, the Office action is incomplete. Petitioner requests the finality of the last Office action be withdrawn.

A review of the Office action does not show the examiner has addressed the Preliminary Amendment filed on September 7, 2010. Therefore the examiner is requested to issue a

[1] MPEP 710.06 [R-3] Situations When Reply Period Is Reset or Restarted. If the error in citation or other defective Office action is called to the attention of the Office after the expiration of the period for reply, the period will not be restarted and any appropriate extension fee will be required to render a reply timely. The Office letter correcting the error will note that the time period for reply remains as set forth in the previous Office action.

supplemental Office action to address the Preliminary amendment of September 7, 2010 and answer the teaching away arguments in accordance with MPEP § 706.02.

In finding petitioner's points of argument persuasive, the requested relief is granted. As such, the finality of the Office actions issued on September 14, 2010 is premature and the finality of the Office action is hereby withdrawn. The Office action mailed on September 14, 2010 will be designated as non-final Office action.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of the Art Unit 3781 for issuance of a supplemental Office action in due course. The mere filing of a petition will not stay any period for reply that may by running against the application, nor act as a stay of other proceedings as stated in 37CFR § 1.181(f.) 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. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Karen M. Young, 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.
12/009,762	01/22/2008	Phyllis Balbosa	PJB 08019	6068

7590 06/01/2011
James Ray & Associates
2640 Pitcairn Road
Monroeville, PA 15146

EXAMINER
COLLADO, CYNTHIA FRANCISCA

ART UNIT	PAPER NUMBER
3781	

MAIL DATE	DELIVERY MODE
06/01/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

James Ray & Associates
2640 Pitcairn Road
Monroeville PA 15146

In re Application of:
BALBOSA, PHYLLIS
Serial No. 12/009,762
Filed: Jan. 22, 2008
Docket: PJB 08019
Title: SANITARY PROTECTIVE COVER FOR APPLIANCE HANDLE

DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the request filed May 18, 2011 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed March 3, 2011.

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 April 1, 2011 is premature and the finality of the Office action is hereby withdrawn. The Office action mailed on April 1, 2011 will be designated as a non-final Office action. Since the finality is being withdrawn, the amendment filed on May 18, 20111 in response to the Office action of April 1, 2011 will be treated as a 37 CFR § 1.111 amendment.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of the Art Unit for consideration of the Rule 111 Amendment of May 18, 2011. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Sharon Gibson, Director
Technology Center 3700

5/31/11

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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DOCKET ADMINISTRATOR – ROOM 3D-201E
ALCATEL-LUCENT USA INC.
600-700 MOUNTAIN AVENUE
MURRAY HILL NJ 07974

MAILED
MAR 30 2012
OFFICE OF PETITIONS

In re Application of	:	
Gang Chen et al	:	
Application No. 12/009,851	:	DECISION GRANTING PETITION
Filed: January 22, 2008	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. -14-1-24	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 29, 2012, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 5, 2012 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2821 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.
12/010,045	01/18/2008	John S. Hendricks	033033-00167	3698

4372 7590 03/30/2011
ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

EXAMINER
CHAI, LONGBIT

ART UNIT	PAPER NUMBER
2431	

NOTIFICATION DATE	DELIVERY MODE
03/30/2011	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):

DCIPDocket@arentfox.com
IPMatters@arentfox.com
Patent_Mail@arentfox.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

ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

Applicant: Hendricks
Appl. No.: 12/010,045
Filing Date: January 18, 2008
Title: ELECTRONIC BOOK SECURE COMMUNICATION WITH HOME SUBSYSTEM
Attorney Docket No.: 033033-00167
Pub. No.: US 2008/0215895 A1
Pub. Date: September 4, 2008

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on March 15, 2011, 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: 03/30/2011 KKING1
03/16/2011 INTEFSW 00005036 012300 12010045
01 FC:1504 300.00 CR

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

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Application of :

SHEN, Shih-Ming et al. :
Application No. 12/010,073 :
Filed: January 18, 2008 :
Attorney Docket No. 5234-0257PUS1 :

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 16, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 Paul Lewis on behalf of all attorneys of record who are associated with customer No. 02292. All attorneys/agents associated with the Customer Number 02292 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Shih-Ming Shen at the address indicated below.

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **SHIH-MING SHEN**
NO. 24, ALLEY 38
LANE 91, SEC. 1
NEIHU ROAD, NEIHU DISTRICT
TAIPEI CITY 114
TAIWAN

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
MAY 17 2011
OFFICE OF PETITIONS

Tan-Chi Yuan
535 N Michigan AVE
APT 1803
Chicago IL 60611-3885

In re Application of	:	
Chieh Tsung Chi	:	
Application No. 12/010,094	:	DECISION ON PETITION
Filing Date: January 18, 2008	:	
Attorney Docket No. **12010094_ck**	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisonal Application (Notice), mailed February 8, 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 April 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of oath or declaration, surcharge, filing fee, search fee, examination fee, additional claim fees, and replacement drawings (2) the petition fee of $810 (3) a proper statement of unintentional delay.

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

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

This application is being referred to the Office of Patent Application Processing.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
JUN 24 2011
OFFICE OF PETITIONS

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

In re Patent No. 7,904,874	:	
Issue Date : March 8, 2011	:	
Application No. 12/010,136	:	ON PETITION
Filed: January 22, 2008	:	
Attorney Docket No. TAIW-442D1	:	

This is a decision on the petition, filed April 12, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's information.

The request is **DISMISSED**.

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

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

The request under 37 CFR 3.81(b) was not accompanied by a statement that the assignment was submitted for recordation before issuance of the patent. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

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

The petition fee of $130 will be charged to Deposit Account No. 18-0002, as authorized.

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

Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P. O. Box 1450
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WESTERMAN HATTORI DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

MAILED
AUG 11 2010
OFFICE OF PETITIONS

In re Application of :
Takae Sukegawa et al :
Application No. 12/010,142 :
Filed: January 22, 2008 :
Attorney Docket No. 052457A

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 2, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2895 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

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.
12/010,151	01/22/2008	R. Rahul	10195.0041	3903

7590 10/26/2010
Huawei Technologies Co., Ltd./Finnegan
901 New York Avenue
NW
Washington, DC 20001

EXAMINER
MUHAMMAD, KHALIF R

ART UNIT	PAPER NUMBER
3685	

MAIL DATE	DELIVERY MODE
10/26/2010	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.

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JACKSON INTELLECTUAL PROPERTY GROUP PLLC
106 STARVALE LANE
SHIPMAN VA 22971

MAILED

SEP 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Hwa-Yuh SHIN	:	
Application No. 12/010,307	:	DECISION ON PETITION
Filed: January 23, 2008	:	
Attorney Docket No. 7000.187	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed February 13, 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 April 14, 2008.

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 required fees; (2) the petition fee of $810; and (3) the required statement of unintentional delay.

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

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

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

All other inquires should be directed to the Office of Data Management at (571) 272-4200.

This application is being referred to the Office of Data Management for further pre-examination processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Jackson Intellectual Property Group PLLC
106 Starvale Lane
Shipman VA 22971

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

In re Application of
Tzu-Chin Kuo
Application No. 12/010,308
Filing Date: January 23, 2008
Attorney Docket No. **7000.188**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisonal Application (Notice), mailed March 5, 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 May 6, 2008.

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

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

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

This application is being referred to the Office of Patent Application Processing.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

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106 STARVALE LANE
SHIPMAN VA 22971

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SEP 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Pi-lin HSU, et al	:	
Application No. 12/010,309	:	DECISION ON PETITION
Filed: January 23, 2008	:	
Attorney Docket No. 7000.189	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed February 13, 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 April 14, 2008.

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 required fees; (2) the petition fee of $810; and (3) the required statement of unintentional delay.

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

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

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

All other inquires should be directed to the Office of Data Management at (571) 272-4200.

This application is being referred to the Office of Data Management for further pre-examination processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Shipman VA 22971

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Tu Lee et al.	:	
Application No. 12/010,310	:	DECISION ON PETITION
Filed: January 23, 2008	:	
Attorney Docket No. **7000.127**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 19, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed February 13, 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 April 14, 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 fees, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to file Missing Parts of Nonprovisional Application of February 13, 2008 is accepted as having been unintentionally delayed.

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

This application is being referred to the Office of Patent Application Processing.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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JACKSON INTELLECTUAL PROPERTY GROUP, LLC
106 STARVALE LANE
SHIPMAN, VA 22971

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AUG 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Ching-Hung Tseng, et al.	:	
Application No. 12/010,311	:	DECISION ON PETITION
Filed: January 8, 2010	:	
Attorney Docket No. 7000.269	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 12, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-provisional Application (Notice), mailed February 13, 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 April 14, 2008.

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

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

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Office of Patent Application Processing at their hotline 571-272-4100.

This application is being referred to the Office of Patent Application Processing for pre-examination processing of the reply received July 12, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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MUNCY, GEISSLER, OLDS & LOWE, PLLC
4000 LEGATO ROAD
SUITE 310
FAIRFAX VA 22033

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of :
San-Woei Shyu et al. :
Application No. 12/010,406 : DECISION ON PETITION
Filed: January 24, 2008 :
Attorney Docket No. **5050/0173PUS1** :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed February 11, 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 April 12, 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 fees, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of February 11, 2008 is accepted as having been unintentionally delayed.

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

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

This application is being referred to the Office of Patent Application Processing.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **JOE MCKINNEY MUNCY**
PO BOX 1364
FAIRFAX VA 22038-1364

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):
12/010,426 (confirmation no. 6237)	
First Named Inventor:	Title of Invention:
Akira HACHIYA	Methods for Gene Transfer to Mammals

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 Michele A Cimbala (atty dkt no. 2537.0090000/MAC)	Date March 30, 2011
Name (Print/Typed) Michele A. Cimbala	Practitioner Registration Number 33,851

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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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED
APR 05 2011
OFFICE OF PETITIONS

In re Application of	:	
Hachiya et al.	:	
Application No. 12/010,426	:	DECISION ON PETITION
Filed: January 24, 2008	:	
Attorney Docket No. 2537.0090000/MAC	:	

This is a decision on the request filed March 30, 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 22, 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 1632 for re-mailing the Office action of October 22, 2010. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KANESAKA BERNER AND PARTNERS LLP
1700 DIAGONAL RD
SUITE 310
ALEXANDRIA, VA 22314-2848

MAILED

SEP 02 2010

OFFICE OF PETITIONS

In re Application of
Tetsuo Ohashi
Application No. 12/010,443
Filed: January 25, 2008
Attorney Docket No. SHM-054

DECISION ON PETITION

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 **DISMISSED**.

This application was held abandoned for failure to reply to the final Office action mailed January 7, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 21, 2010.

A review of the record discloses that petitioner filed a Request for Continued Examination (RCE) with a three (3) month extension of time. However, the filing of a RCE under 37 CFR 1.114 without a proper submission is considered an improper filing.

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.

Petitioner's RCE did not include a proper submission under paragraph (d) as a request for suspension is not a n acceptable submission. See MPEP 706.07(h)(ll), first paragraph.

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).

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."

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

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450

Alexandria, VA 22313-1450

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

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

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KANESAKA BERNER AND PARTNERS LLP
1700 DIAGONAL RD
SUITE 310
ALEXANDRIA, VA 22314-2848

MAILED

NOV 10 2010

OFFICE OF PETITIONS

In re Application of :
Tetsuo Ohashi :
Application No. 12/010,443 : ON PETITION
Filed: January 25, 2008 :
Attorney Docket No. SHM-054 :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 7, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 8, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. 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 1637 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

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.
12/010,533	01/25/2008	Hideaki Shimada	Q105651	7608

7590 01/27/2011
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
CARLSON, KAREN C

ART UNIT	PAPER NUMBER
1656	

NOTIFICATION DATE	DELIVERY MODE
01/27/2011	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 25, 2011

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of	: **DECISION ON PETITION**
Shimada, Hideaki et al,	
Application No. **12/010533**	: **ACCEPTANCE OF COLOR**
Filed: **01/25/2008**	: **DRAWINGS**
Attorney Docket: **Q105651**	:

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) January 25, 2008.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

   "The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

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	12010559
Filing Date	25-Jan-2008
First Named Inventor	Satoshi Sakurai
Art Unit	2184
Examiner Name	HYUN NAM
Attorney Docket Number	1713.1060
Title	COMMUNICATION APPARATUS, KVM SWITCH AND COMMUNICATION CONTROL 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	/Thomas E McKiernan/
Name	Thomas E. McKiernan
Registration Number	37889

UNITED STATES 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 28, 2011

In re Application of :

Satoshi Sakurai

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 12010559

Filed : 25-Jan-2008

Attorney Docket No : 1713.1060

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed December 28, 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 2184 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington DC 20006-5403

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of Nejad and Seyyedy Application No. 12/010,651 Filed: January 28, 2008 Attorney Docket No. M4065.0514/P514-F Title: STACKED MEMORY CELL STRUCTURE AND METHOD OF FORMING SUCH A STRUCTURE	DECISION ON RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.47(A) AND ORIGINAL PETITION PURSUANT TO 37 C.F.R. § 1.183

This is in response to the submission of May 5, 2010, entitled "REQUEST UNDER 37 CFR §§ (sic) 1.183 TO ACCEPT A SUBSTITUTE DECLARATION WHERE ONE INVENTOR CANNOT BE REACHED," which is being construed to also contain a renewed petition pursuant to 37 C.F.R. § 1.47(a).

The petition pursuant to 37 C.F.R. § 1.183 is **DISMISSSED.** Rule 1.183 permits applicants to seek the suspension or waiver of "any requirement of the regulations." Petitioner has not indicated which portion of which Rule he would have the Office suspend or waive. It follows that this request cannot be entertained at this time.

The renewed petition pursuant to 37 C.F.R. § 1.47(a) is **GRANTED.**

A four-month extension of time will be charged to Deposit Account No. 04-1073 in due course, so as to make timely this submission.

On January 28, 2008, the application was filed, identifying Messrs. Nejad and Seyyedy as joint inventors. A fully executed declaration was included on filing, however, this declaration failed to contain the citizenship of either inventor, as required by 37 C.F.R. § 1.63(a)(3).

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

(1) the petition fee of $200;

(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(f);
(3) a statement of the last known address of each non-signing inventor;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to each non-signing inventor for review and proof that each non-signing inventor refuses to join in the application or
  b) proof that each non-signing inventor cannot be found or reached after diligent effort, and;
(5) a declaration which complies with 37 C.F.R. § 1.63.

An original petition pursuant to 37 C.F.R. § 1.47(a) was filed on September 29, 2009, along with, *inter alia*, a declaration that lists the first-named inventor as the sole inventor, a declaration of facts, the last-known address of Mr. Seyyedy,[1] and an indication that this individual cannot be located.[2]

The original petition was dismissed via the mailing of a decision on November 24, 2009, which indicated that requirements (1) and (3) of 37 C.F.R. § 1.47(a) had been satisfied, and that the second requirement is not applicable.

With this renewed petition, Petitioner has submitted, *inter alia*, results of searches, statements of facts and a supplemental declaration that has been executed by Mr. Nejad.

The fourth and fifth requirements of 37 C.F.R. § 1.47(a) have been satisfied.

Consequently, each applicable requirement of 37 C.F.R. § 1.47(a) has been met.

The above-identified application and papers have been reviewed and found to be in compliance with 37 C.F.R. § 1.47(a). This application is hereby accorded Rule § 1.47(a) status.

As provided in Rule 1.47, this Office will forward notice of this application's filing to the non-signing inventor at the address that appears on the supplemental declaration that was included

1 Flax declaration of facts, paragraph 10.
2 Origninal petition, page 1. See also Flax declaration of facts, generally.

with this renewed petition. Notice of the filing of this application will also be published in the Official Gazette.

The Office of Patent Application Processing (OPAP) will be notified of this decision, and jurisdiction over the application is transferred to OPAP, so that the application may receive further processing.

Petitioner will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OPAP.

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.[3]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for 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
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Mirmajid Seyyedy
4665 N. Bantry PLC.
Boise, Idaho 83702

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of :
Nejad and Seyyedy :
Application No. 12/010,651 :
Filed: January 28, 2008 : LETTER
Attorney Docket No. :
M4065.0514/P514-F :
Title: STACKED MEMORY CELL :
STRUCTURE AND METHOD OF :
FORMING SUCH A STRUCTURE :

Dear Mr. Seyyedy:

You are named a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. § 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application, you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, the attorney of record below would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3225. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington DC 20006-5403

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED

AUG 03 2010

OFFICE OF PETITIONS

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE, SUITE 101
ELLICOTT CITY MD 21043

In re Application of	:	
Chang Ming YI	:	
Application No. 12/010,659	:	ON PETITION
Filed: January 28, 2008	:	
Attorney Docket No. MR1683-909	:	

This is a decision on the petition, filed May 10, 2010, which is requesting that the requirement be waived or suspended pursuant to 37 CFR 1.183.

The petition is **DISMISSED.**

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed February 19, 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 April 20, 2008. A Notice of Abandonment was mailed October 27, 2008.

In the petition filed May 10, 2010, petitioner has requested the requirement that the petition fee be waived or suspended. Petitioner asserts that the facts surrounding the requirement for the petition has created an extraordinary situation and that justice requires the Director of Patents and Trademarks to suspend the rules where the applicants did everything necessary to ensure a proper filing and paid all fees to registered Patent Attorney, Bruce Troxel. Petitioner further asserts that Attorney Troxel failed to pay the required fees to the Office and respond to the Notice mailed February 19, 2008, in a timely manner. According to petitioner, the fees were paid to Attorney Troxel, thus applicants had no reason to believe any other actions were needed on their part and are believed to be completely and totally harmless.

37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived by the Commissioner.

The petition cannot be granted under 37 CFR 1.183 because reliance is not considered an extraordinary situation and no other extraordinary circumstances have been presented. Based on the facts presented, the USPTO will not waive the rules.

As authorized, the petition fee under 37 CFR 1.183 is being charged to Deposit Account No. 18-2011.

Telephone inquiries regarding this communication should be directed to Diane C. Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

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SEP 08 2010

OFFICE OF PETITIONS

In re Application of
Chang Ming Yi
Application No. 12/010,659
Filed: January 28, 2008
Attorney Docket No. MR1683-909

DECISION ON REQUEST FOR REFUND

This is a decision on the Request For Refund filed August 19, 2010.

The request is **GRANTED**.

As authorized, the $ 400.00 petition fee charged on May 10, 2010, is being credited to petitioner's deposit account.

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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Yen Jung Sung
30-47 37 St.
Astoria, NY 11103

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of :
Chien-Liang Chen :
Application No. 12/010,660 :
Filed: January 28, 2008 :
Attorney Docket No. Asia045-US3627 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed July 29, 2010, to revive the above-identified application. The delay in responding is sincerely regretted.

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed;[1] (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lack items (1) and (3) above.

With respect to item (1), the fee deficiency of $10 is required to complete the examination fee of $110.

With respect to item (3), petitioner alleges that the previous attorney of record, Bruce Troxell, misrepresented the above application and this misrepresentation resulted in the unavoidable abandonment. Petitioner states "...the local agent believed that the case was pending without any problems or outstanding actions, as heretofore Mr. Troxell would always advise the local agent if there were any outstanding issues – which was the case all the way up to December of 2009."

[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.

A review of the record shows that a Notice to File Missing Parts of Nonprovisional Application was mailed on February 19, 2008, which set a two months period within which to submit a reply. Since no reply was received and no extensions of time under the provisions of 37 CFR 1.136(a) was obtained, the application became abandoned on April 20, 2008. A Notice of Abandonment was mailed on October 27, 2008.

From petitioner's own admission, Mr. Troxell advised the local agent of any outstanding issues up until December 2009. Petitioner should note that this application was abandoned on April 20, 2008. Therefore, the argument that Mr. Troxell misrepresented information regarding this application is immaterial to the above application.

In view of the above, the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay. Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Petitioner should note that the USPTO must rely on the action or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962). Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

Petitioner is also reminded that any omissions of former counsel did not relieve applicant from the obligation to exercise diligence with respect to this application. Douglas v. Manbeck, 1991 U.S. Dist. LEXIS 16404, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), *aff'd*, 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992) (applicant's failure for over a two year period, to exercise due diligence in prosecuting this application overcame and superseded any omissions on the part of prior counsel). In the absence of an adequate showing of diligence in this *matter throughout the period in question*, and a showing of affirmative misrepresentations on the part of the former agent, the actions or inactions of the former agent will remain imputed to petitioner, notwithstanding the agent's disbarment. Lonardo, supra. Had petitioner exercised more diligence in this case, he would have been able to correct the matter in a more timely fashion. See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Why was petitioner "unavoidably" prevented from contacting the USPTO or

taking any efforts to ensure prosecution, when he was informed of the status of this application up and until December 2009[2]?

Petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 petition fee. A blank unintentional petition form is enclosed for petitioner's use.

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).

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 "Petition under 37 CFR 1.137." This is not a final agency action within the meaning of 5 U.S.C.§ 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The Centralized facsimile number is (571) 273-8300, and documentation to this number should be addressed to the Office of Petitions.

Since the address given in the present petition differs from the correspondence address of record, a courtesy copy of this decision is being mailed to petitioner. Thereafter, all future correspondence from the Office will be mailed solely to the address of record until notified by the applicant.

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[2] A delay resulting from a failure in communication between a party and his or her registered practitioner is a delay binding upon petitioner. *See* In Re Kim, 12 USPQ2d 1595 (Comm'r Pat. 1988); Ray v. Lehman, 55 F.3d 606, 610, 34 USPQ2d 1786, 1789 (Fed. Cir. 1989).

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

Enclosure: Petition under 37 CFR 1.137(b) – Form No. PTO/SB/64

cc: Yen Jung Sung
2180 38 St. #C8
Astoria, NY 11105

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Yen Jung Sung
30-47 37 St.
Astoria, NY 11103

MAILED
JUN 16 2011
OFFICE OF PETITIONS

In re Application of Chien-Liang Chen Application No. 12/010,660 Filed: January 28, 2008 Attorney Docket No. Asia045-US3627	: : : : :	ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), filed April 27, 2011, to revive the above-identified application.

In response to the decision mailed February 28, 2011, petitioner submits the present renewed petition along with the $10 fee deficiency to complete the required $110 examination fee.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of $270 for the search fee, $110 for the examination fee, $165 for the filing fee and $65 for the late filing surcharge; (2) the petition fee of $270; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable. Therefore, the petition is **GRANTED**.

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

Yen Jung Sung
30-47 37 St.
Astoria, NY 11103

MAILED
FEB 28 2011
OFFICE OF PETITIONS

In re Application of :
Fu-Hsing Tan :
Application No. 12/010,661 : ON PETITION
Filed: January 28, 2008 :
Attorney Docket No. Asia047-US3629 :

This is a decision on the petition under 37 CFR 1.137(a), filed July 29, 2010, to revive the above-identified application. The delay in responding is sincerely regretted.

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed;[1] (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lack items (1) and (3) above.

With respect to item (1), the fee deficiency of $10 is required to complete the examination fee of $110.

With respect to item (3), petitioner alleges that the previous attorney of record, Bruce Troxell, misrepresented the above application and this misrepresentation resulted in the unavoidable abandonment. Petitioner states "...the local agent believed that the case was pending without any problems or outstanding actions, as heretofore Mr. Troxell would always advise the local agent if there were any outstanding issues – which was the case all the way up to December of 2009."

[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.

A review of the record shows that a Notice to File Missing Parts of Nonprovisional Application was mailed on February 19, 2008, which set a two months period within which to submit a reply. Since no reply was received and no extensions of time under the provisions of 37 CFR 1.136(a) was obtained, the application became abandoned on April 20, 2008. A Notice of Abandonment was mailed on October 27, 2008.

From petitioner's own admission, Mr. Troxell advised the local agent of any outstanding issues up until December 2009. Petitioner should note that this application was abandoned on April 20, 2008. Therefore, the argument that Mr. Troxell misrepresented information regarding this application is immaterial to the above application.

In view of the above, the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay. Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Petitioner should note that the USPTO must rely on the action or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962). Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

Petitioner is also reminded that any omissions of former counsel did not relieve applicant from the obligation to exercise diligence with respect to this application. Douglas v. Manbeck, 1991 U.S. Dist. LEXIS 16404, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), *aff'd*, 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992) (applicant's failure for over a two year period, to exercise due diligence in prosecuting this application overcame and superseded any omissions on the part of prior counsel). In the absence of an adequate showing of diligence in this *matter throughout the period in question*, and a showing of affirmative misrepresentations on the part of the former agent, the actions or inactions of the former agent will remain imputed to petitioner, notwithstanding the agent's disbarment. Lonardo, supra. Had petitioner exercised more diligence in this case, he would have been able to correct the matter in a more timely fashion. See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Why was petitioner "unavoidably" prevented from contacting the USPTO or

taking any efforts to ensure prosecution, when he was informed of the status of this application up and until December 2009[2]?

Petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 petition fee. A blank unintentional petition form is enclosed for petitioner's use.

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).

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 "Petition under 37 CFR 1.137." This is not a final agency action within the meaning of 5 U.S.C.§ 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The Centralized facsimile number is (571) 273-8300, and documentation to this number should be addressed to the Office of Petitions.

Since the address given in the present petition differs from the correspondence address of record, a courtesy copy of this decision is being mailed to petitioner. Thereafter, all future correspondence from the Office will be mailed solely to the address of record until notified by the applicant.

[2] A delay resulting from a failure in communication between a party and his or her registered practitioner is a delay binding upon petitioner. *See* In Re Kim, 12 USPQ2d 1595 (Comm'r Pat. 1988); Ray v. Lehman, 55 F.3d 606, 610, 34 USPQ2d 1786, 1789 (Fed. Cir. 1989).

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

Enclosure: Petition under 37 CFR 1.137(b) – Form No. PTO/SB/64

cc: Yen Jung Sung
2180 38 St. #C8
Astoria, NY 11105

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Yen Jung Sung
30-47 37 St.
Astoria, NY 11103

MAILED
JUN 16 2011
OFFICE OF PETITIONS

In re Application of :
Fu-Hsing Tan :
Application No. 12/010,661 : ON PETITION
Filed: January 28, 2008 :
Attorney Docket No. Asia047-US3629 :

This is a decision on the renewed petition under 37 CFR 1.137(a), filed April 27, 2011, to revive the above-identified application.

In response to the decision mailed February 28, 2011, petitioner submits the present renewed petition along with the $10 fee deficiency to complete the required $110 examination fee.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of $270 for the search fee, $110 for the examination fee, $165 for the filing fee and $65 for the late filing surcharge; (2) the petition fee of $270; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable. Therefore, the petition is **GRANTED**.

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Muncy, Geissler, Olds & Lowe, PLLC
4000 Legato Road
Suite 310
FAIRFAX VA 22033

MAILED

AUG 2 6 2010

OFFICE OF PETITIONS

In re Application of :
Ching Chuan Wang :
Application No. 12/010,662 : DECISION ON PETITION
Filed: January 28, 2008 :
Attorney Docket No. 5900/0176PUS1 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 29, 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 Non-Provisional Application (Notice), mailed February 19, 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 April 20, 2008. A Notice of Abandonment was mailed October 28, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a surcharge fee of $65, a basic filing fee of $165, a search fee of $270, examination fee of $110 and replacement drawings (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the fees and replacement drawings are accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries should be directed to the Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the replies received March 8, 2010 and June 29, 2010. They can be reached at 571-272-4000.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Joe McKinney Muncy
P.O. Box 1364
Fairfax, VA 22038-1364

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.
12/010,706	01/29/2008	Ki-ha Hong	2557-000853/US	7613

30593 7590 09/03/2010
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
YOHA, CONNIE C

ART UNIT	PAPER NUMBER
2827	

MAIL DATE	DELIVERY MODE
09/03/2010	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

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

IN RE APPLICATION OF
Ki-Ha Hong et al.
Application No.: 12/010706
Filed: 01/29/2008
For:
NONVOLATILE MEMORY DEVICE AND METHOD OF OPERATING AND FABRICATING THE SAME

DECISION ON PETITION TO ACCEPT COLOR PHOTOGRAPHS OR COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84, filed January 29,2008, requesting acceptance of color drawings.

The petition is GRANTED.

The petition requests that the color drawings identified as figures 5-11 be accepted in lieu of black and white drawings .

A grantable petition under 37 C.F.R. § 1.84(a)(2) and 37 C.F.R. § 1.84(b)(2) must be accompanied by (1) a fee set forth in 37 C.F.R. § 1.17(h), (2) three (3) sets of color photographs and three (3) sets of color drawings, and the specification must contain the following language as the first paragraph in the portion of the specification relating to the brief description of the drawings:

"*The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee.*"

The petition was filed with the required fees, three (3) sets of the color photographs and three (3) sets of color drawing figures identified above and the required language in the specification as quoted above. Accordingly, the petition complies with all the requirements under 37 C.F.R. § 1.84(a)(2) and 37 C.F.R. § 1.84(b)(2).

The application is being forwarded to the Office of Publication for issuance of a patent.

Any inquiries regarding this decision should be directed to Amir Zarabian, Supervisory Patent Examiner, at (571) 272-1852.

Amir Zarabian, Supervisory Patent Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/010,714	01/29/2008	Taku Masai	135297	8990

25944 7590 05/13/2011
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER
CHAN, TSZFUNG JACKIE

ART UNIT	PAPER NUMBER
2832	

NOTIFICATION DATE	DELIVERY MODE
05/13/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

OfficeAction25944@oliff.com
jarmstrong@oliff.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

May 11, 2011

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Application of	:	
Taku Masai, et al	:	**DECISION ON PETITION**
Application No. 12010714	:	
Filed: 01/29/2008	:	
Attorney Docket No. **135297**	:	

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 27, 2008.

The petition is **DISMISSED.**

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, (One (1) set for EFW filings, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings

"The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

The petition did not meet the following requirement(s). 1 ☐ 2 ☐ 3 ☑

A renewed petition filed under 37 C.F.R. 1.84 (a) (2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura L. Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/010,714	01/29/2008	Taku Masai	135297	8990

7590 06/01/2011
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER
CHAN, TSZFUNG JACKIE

ART UNIT	PAPER NUMBER
2832	

NOTIFICATION DATE	DELIVERY MODE
06/01/2011	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

May 29, 2011

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Application of	:	
Taku Masai et al.	:	**DECISION ON PETITION**
Application No. 12010714	:	
Filed: 01/29/2008	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **135297**	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) May 24, 2011.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

NORTH AMERICA INTELLECTUAL
PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD VA 22116

MAILED
MAY 25 2011
OFFICE OF PETITIONS

In re Application of :
Sam Shia-Shiang Jiang :
Application No. 12/010,730 :
Filed: 01/29/2008 :
Atty Docket No. 1291-001.801 (00910032-US) :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on April 8, 2011.

The Office no longer investigates or rejects original or reissue patents under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This 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.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

DWood
Douglas Wood
Attorney
Office of Petitions

cc: KLEIN, O'NEILL & SINGH, LLP
18200 VON KARMAN AVE, STE 725
IRVINE CA 92612

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.
12/010,758	01/29/2008	Hisanori Yokura	01-1567	8812

23400 7590 02/09/2011
POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

EXAMINER
JENKINS, JERMAINE L

ART UNIT	PAPER NUMBER
2855	

MAIL DATE	DELIVERY MODE
02/09/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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In re Patent No. YOKURA ET AL.	:	
Issue Date: January 12, 2010	:	**DECISION GRANTING**
Appl No.: 12/010,758	:	**PETITION**
Filed: January 29, 2008	:	*37 CFR 1.324*
For: Semiconductor Sensor for Measuring a Physical	:	
Quantity and Method of Manufacturing the Same	:	
	:	
	:	

This is a decision on the petition under 37 CFR 1.48, filed February 27, 2009. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Lisa Caputo
Supervisory Patent Examiner
Art Unit 2855
Patent Examining Group 2800

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

UNITED STATES PATENT AND TRADEMARK OFFICE

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Patent No. 7,929,116	:	
Issue Date: April 19, 2011	:	
Application No. 12/010,819	:	DECISION ON PETITION
Filed: January 30, 2008	:	
Attorney Docket No. 081468-0365891	:	

This is a decision on the petition, filed, May 20, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignees names are "ASML NETHERLANDS B.V., VELDHOVEN (NL) and "CARL ZEISS SMT AG, OBERKOCHEN (DE)" and that the incorrect assignee's name was included included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, 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.

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.

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "ASML NETHERLANDS B.V., VELDHOVEN (NL) and "CARL ZEISS SMT AG, OBERKOCHEN (DE)" are the assignees of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Michelle R. Eason at (571) 272-4231. 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 after issuance of this application into a patent.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/010,833	01/30/2008	Yumiko Kozuki	2008_0104A	1131

513 7590 05/19/2011
WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington, DC 20005-1503

EXAMINER
CHOI, FRANK I

ART UNIT	PAPER NUMBER
1616	

NOTIFICATION DATE	DELIVERY MODE
05/19/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ddalecki@wenderoth.com
eoa@wenderoth.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAY 19 2011

WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

In re Application of:
Yumiko Kozuki
Serial No.: 12/010,833
Filed: January 30, 2008
Attorney Docket No.: **2008_0104A**

: PETITION DECISION

This is in response to the "request" that is being treated as a petition under 37 CFR § 1.181, filed May 9, 2011, requesting that the final Office action of December 10, 2010 be withdrawn.

Applicant's arguments have been accorded careful consideration but they are not persuasive for the following reasons. The petition was untimely and therefore the merits of such won't be considered. Applicants should note that 37 CFR 1.181(f) indicates that any petition not filed within two months of the mailing date of the action from which relief is requested may be dismissed as untimely. If the applicant wants consideration after the two months they should file a petition, and corresponding petition fee for such, under 37 CFR 1.183 and ask for a suspension of the Rule 181 and ask that consideration be made later than the 2 months.

Accordingly, the petition filed under 37 CFR 1. 181 is **DISMISSED** as untimely.

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.

Jacqueline Stone
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/010,920	01/31/2008	Bernhard Krauss	32860-001396/US/01	8638

7590 03/04/2011
HARNESS, DICKEY & PIERCE, P.L.C.
P.O.BOX 8910
RESTON, VA 20195

EXAMINER
TANINGCO, ALEXANDER H

ART UNIT	PAPER NUMBER
2882	

NOTIFICATION DATE	DELIVERY MODE
03/04/2011	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

March 2, 2011

HARNESS, DICKEY & PIERCE, P.L.C.
P.O.BOX 8910
RESTON VA 20195

In re Application of	:	
Bernhard Krauss, et al	:	**DECISION ON PETITION**
Application No. 12010920	:	
Filed: 01/31/2008	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **32860-001396/US/01**	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) January 31, 2008.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROBERT PLATT BELL
REGISTERED PATENT ATTORNEY
P.O. BOX 13165
JEKYLL ISLAND GA 31527

MAILED
OCT 06 2010
OFFICE OF PETITIONS

In re Application of	:	
Thomas et al.	:	DECISION ON PETITION
Application No. 12/011,025	:	TO WITHDRAW
Filed: January 22, 2008	:	FROM RECORD
Attorney Docket No. TAPROOT-0002	:	

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 23, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Robert Platt Bell on behalf of all attorneys of record, but does not include a Customer Number. Accordingly, since the practitioners were appointed by a Customer Number, the Request must reflect withdrawal of practitioners associated with the same Customer Number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
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

OPAP
OCT 07 2011
PATENT & TRADEMARK OFFICE

R WAYNE PRITCHARD
300 EAST MAIN, STREET 1240
EL PASO TX 79901

MAILED

AUG 18 2011

OFFICE OF PETITIONS

In re Application of	:	
KRAFSUR	:	
Application No. 12/011,095	:	ON PETITION
Filed: January 24, 2008	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 12, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 13, 2011. A Notice of Abandonment was mailed June 8, 2011.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

With respect to item (1): A review of the record shows that the petition in the above-identified application was accompanied by a payment of $750 for the petition fee. As of October 2, 2008, a new fee schedule was posted and new fees should have been applied to any petition fee filed after the date listed above. The instant petition lacks a complete petition fee payment and an additional $60 is due to complete the required petition fee as set forth in 37 CFR 1.17(m). No consideration on the merits can be given until the required fee deficiency is remitted.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

R WAYNE PRITCHARD
300 EAST MAIN, STREET 1240
EL PASO TX 79901

MAILED

OCT 3 1 2011

OFFICE OF PETITIONS

In re Application of	:	
KRAFSUR	:	
Application No. 12/011,095	:	ON PETITION
Filed: January 24, 2008	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 12, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 13, 2011. A Notice of Abandonment was mailed June 8, 2011.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (2).

With respect to item (2): A review of the Office record shows that the renewed petition in the above-identified application was accompanied by a payment of $60 for the petition fee. As of September 26, 2011, a new fee schedule was posted and new fees should have been applied to any petition fee filed after the date listed above. The instant petition lacks a complete petition fee payment and an additional $120 is due to complete the required petition fee as set forth in 37 CFR 1.17(m). No consideration on the merits can be given until the required fee deficiency is remitted. The Office suggest petitioner either review the current fee schedule at www.uspto.gov or check with the Office of Petitions at (571) 272-6735, prior to submitting any future fees.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane Goodwyn/
Diane 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

R WAYNE PRITCHARD
300 EAST MAIN, STREET 1240
EL PASO TX 79901

MAILED

DEC 21 2011

OFFICE OF PETITIONS

In re Application of	:	
KRAFSUR	:	
Application No. 12/011,095	:	ON PETITION
Filed: January 24, 2008	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 22, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 12, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 13, 2011. A Notice of Abandonment was mailed June 8, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of Arguments, (2) the petition fee of $930; and (3) and the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

David D. Winters
Suite 237
2277-C, Wilma Rudolph Blvd
Clarksville TN 37040-5898

MAILED
NOV 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Kevin Leon Buchanan	:	
Application No. 12/011,097	:	DECISION ON PETITION
Filed: January 24, 2008	:	TO WITHDRAW
Attorney Docket No. 0648 (RPA1) BUCHANAN	:	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 7, 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. 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 David D. Winters, does not have power of attorney, but has acted in a representative capacity 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 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: Mr. Kevin Leon Buchanan
2104 Belmont Drive
Clarksville, TN 37043

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SHEEHAN PHINNEY BASS & GREEN, PA
C/O PETER NIEVES
1000 ELM STREET
MANCHESTER, NH 03105-3701

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Yachin et al.	:	DECISION ON PETITION
Application No. 12/011,106	:	TO WITHDRAW
Filed: January 23, 2008	:	FROM RECORD
Attorney Docket: 054151.136US1	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 4, 2010.

The request is **DISMISSED**.

A review of the file record indicates that Sheehan Phinney Bass & Green, PA were revoked as power of attorney by the assignee of the patent application on July 22, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not necessary.

All future communications from the Office will continue to be directed to the current address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

SEP 23 2010

OFFICE OF PETITIONS

Robert C. Curfiss
19826 Sundance Drive
Humble TX 77346-1402

In re Application of	:	
Phuong Taylor Nguyen	:	
Application No. 12/011,339	:	DECISION ON PETITION
Filing Date: January 26, 2008	:	
Attorney Docket No. **Axxiom 339**	:	

This is a decision on the communication filed February 26, 2009, and a supplemental renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 1, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisonal Application (Notice), mailed February 28, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. A four (4) month extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 29, 2008.

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 replacement drawings, (2) the petition fee of $810 (3) a proper statement of unintentional delay.

Petitioner has submitted $810 with the supplemental renewed petition filed on March 1, 2010. However, when filing a renewed petition a new fee is not required. Therefore, the fee is unnecessary and 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 the Office of Patent Application Processing.

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.
12/011,347	01/25/2008	Robert H. Kincaid	10060673-01	6771

7590 03/09/2011
Agilent Technologies, Inc. in care of:
CPA Global
P. O. Box 52050
Minneapolis, MN 55402

EXAMINER
RAYMOND, EDWARD

ART UNIT	PAPER NUMBER
2857	

NOTIFICATION DATE	DELIVERY MODE
03/09/2011	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

March 7, 2011

Agilent Technologies, Inc. in care of:
CPA Global
P. O. Box 52050
Minneapolis MN 55402

re Application of
KINCAID, ROBERT H., Et. Al : **DECISION ON PETITION**
Application No: **12/011347** : **ACCEPTANCE OF COLOR**
Filed: **01/25/2008** : **DRAWINGS**
Attorney Docket No: **26.0274 US** :

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) January 25, 2008.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

   "The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
12/011,415	01/26/2008	Jerrod Robert Lloyd		8156

7590 08/01/2011

Jerrod R. Lloyd
PO Box 567
Woodbury, NJ 08096

EXAMINER
AVILA, STEPHEN P

ART UNIT	PAPER NUMBER
3617	

MAIL DATE	DELIVERY MODE
08/01/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AUG - 1 2011

Jerrod R. Lloyd
PO Box 567
Woodbury, NJ 08096

In re Application of LLOYD, JERROD ROBERT Appl. No.: 12/011,415 Filed: January 26, 2008 For: **METHOD AND APPARATUS FOR ABSORBING, DAMPENING AND/OR REDUCING SOUNDS AND VIBRATIONS CREATED BY THE USE OF AN ELECTRIC TROLLING MOTOR; WHICH AT THE SAME TIME PROTECTS THE TROLLING MOTOR AGAINST DAMAGE BY DAMPENING FORCE AND/OR SOUNDS FROM EXTERNAL TRAUMA**	**DECISION ON PETITON FOR SUPERVISORY REVIEW UNDER *37 CFR 1.181***

This is a decision on the petition filed October 12, 2010 for supervisory review of an examiner's action under 37 CFR 1.181. Petitioner requests the relief of reversal of the Primary Examiner's holding that the drawings enter new matter into the application, and approval of those drawings.

The petition is **Dismissed**.

A review of the file record reveals that petitioner filed corrected drawings for figures 1, 2, 4, 6, 7, & 8 on April 16, 2008 in response to a "Notice to File Missing Parts" Office action of February 19, 2008. The examiner disapproved these drawings during examination because the examiner held that figures 2-6 of the amended drawings (figures 2, 4 & 6) attempted to add new matter to the originally filed disclosure (see non-final Office action of November 10, 2009). This objection to the drawings was repeated and made final in the Office action of April 28, 2010. Petitioner is requesting supervisory review and reversal of the Primary Examiner's decision holding that these figures enter new matter into the application, and requesting that the drawings be approved.

With regard to the amended figures 2, 4 & 6 and where support for the changes to those figures can be found, petitioner states:

> *"applicant provided the same pictures which had been revised by a professional draftsman. Whereas the original drawings were colored in, these drawings are not colored in."*

With regard to specification and where support for the changes to those figures can be found, petitioner states:

> *"Further, the specification sets forth that the exact configuration of the Invention is subject to change and will vary with make and model of the trolling motor to which the Invention is applied."*

When determining whether new matter is present in an amendment, the overriding consideration is to compare the original disclosure, including the drawings **as originally filed**, with the changes being introduced by the amendment. Petitioner's own pictorial side-by-side comparison on page 6 of the petition clearly shows additional detail in the new "uncolored" pictures versus the originals as filed as set forth below.

Specifically with regard to amended figure 2, figure 2 now depicts a collar that is necked down in diameter on shaft 2b and has a tapered peripheral edge that flares out to contact the body of the motor. Additionally, figure 2 now illustrates a flared necked down angular peripheral portion on the motor body located to the left of the lower fin between the fin and the propeller. Finally, figure 2 also now illustrates a curved continuous concave surface that extends from the top left portion of the fin and terminates at that tapered peripheral edge that flares out to contact the body of the motor. Originally filed figure 2 simply illustrates vague and amorphous shading in the area of the propeller motor and an irregularly shaped motor outline with a solid white body. In addition to the lack of detail in the originally filed figure 2, there is no corresponding description in the specification that is so specific that it would permit addition of this level of detailed illustration to be added to figure 2 as originally filed; and therefore the amended figure does enter new matter into the application and the Primary Examiner's decision in that regard is not in error.

Specifically with regard to amended figure 4, figure 4 now depicts a collar that is necked down in diameter from shaft 4b and has an opening that coincides with an opening in the peripheral edge of a cylindrical covering on the body of the motor. Originally filed figure 4 only shows a solid black shaft intersecting a solid black motor body and none of these additional details. Furthermore, figure 4 also now illustrates three concentric rings on the front face of the propeller, whereas originally filed figure 4 simply shows a solid black mass in that location. In addition to the lack of detail in the originally filed figure 4, there is no corresponding description in the specification that is so specific that it would permit addition of this level of detailed illustration to be added to figure 4 as originally filed; and therefore the amended figure does enter new matter into the application and the Primary Examiner's decision in that regard is not in error.

Specifically with regard to amended figure 6, figure 6 now depicts a symmetrically tapered bell shaped motor covering that intersects an ovoid shaped structure centrally located on the motor in the area of 6a at approximately the apex of the bell shape. Originally filed figure 6 only shows a vague and amorphously shaped projection with the rest of the motor being solid white. Furthermore, figure 6 also now illustrates a flared necked down angular peripheral portion on the motor body located to the left of the ovoid shaped member between the ovoid member and the

propeller, whereas originally filed figure 6 simply shows an amorphously shaded region in that location. In addition to the lack of detail in the originally filed figure 6, there is no corresponding description in the specification that is so specific that it would permit addition of this level of detailed illustration to be added to figure 6 as originally filed; and therefore the amended figure does enter new matter into the application and the Primary Examiner's decision in that regard is not in error.

For all of the above given reasons, petitioner's request for supervisory review overturning the Primary Examiner's holding of new matter in the amended drawings is not persuasive and is dismissed. As such, petitioner is not entitled to the relief requested. Petitioner is reminded that the filing of a Petition for Supervisory Review does not stay prosecution of the application, and the time period for response continues to run from the date of the last Office action, which was June 7, 2011.

Telephone inquiries regarding this decision should be directed to S. Joseph Morano, Supervisory Patent Examiner for Art Unit 3617, at (571) 272-6684. Telephone inquiries regarding the status of the claims and other examination related issues should be directed to the examiner of record, Stephen Avila, at (571) 272-6678.

Dave Talbott, Director
Patent Technology Center 3600
(571) 272-5150

DT/sjm: 7/13/11
TL

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.
12/011,433	01/25/2008	Jae-Young Park	21495US02	8397

23446 7590 02/01/2011
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

EXAMINER
SENGDARA, VONGSAVANH

ART UNIT	PAPER NUMBER
2826	

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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

In re Application of Jae-Young Park et al. Application No.: 12/011433 Filed: January 25, 2008 Attorney Docket No.: 21495US02	: : : : : :	DECISION ON PETITION UNDER 37 CFR § 1.144

This is a decision on the petition filed on July 6, 2010, under 37 CFR § 1.144, requesting review of the Restriction Requirement mailed on January 8, 2010 and made final on May 11, 2010.

The petition is GRANTED.

Petitioner asserts that the restriction requirement mailed on January 8, 2010 and made final on May 11, 2010 is in error because: 1) the subject matter of the withdrawn claims 1 through 5 has already been examined; and 2) the restriction fails to establish a *prima facie* case that a serious burden exists with respect to a search and examination of all the claims.

The Election of Species Requirement mailed on January 8, 2010 identified two species corresponding to the embodiments shown in Figures 6 and 7 and required election of one species for further examination. A review of the specification and drawings as well as the originally presented claims and the prosecution history indicates that claims drawn to both species were present and examined at the time the non-final Office action was mailed on June 23, 2009. Therefore, the petitioner is correct in the assertion that both species were previously examined. Since claims drawn to both species had already been examined and the scope of claims 1 through 5 has not been substantively amended, no serious burden exists to justify withdrawing these claims from consideration as being drawn to a non-elected species.

For the above-stated reason, the petition is granted.

The application is being forwarded to the examiner for further action on the merits, including the examination of previously withdrawn claims 1-5, 13, and 16.

Telephone inquiries should be directed to Matthew Landau, Supervisory Patent Examiner, at (571)-272-1731.

John W. Cabeca, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JOHN BROOKS LAW LLC
P.O. Box 156
WRENTHAM MA 02093

MAILED
JAN 13 2011
OFFICE OF PETITIONS

In re Application of :
Lonnie E. Paulos :
Application No. 12/011,455 :
Filed: January 28, 2008 :
Attorney Docket No. **PAULPU0820** :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 15, 2010, and supplemented on December 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, December 11, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 12, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation in part application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of Continuation in Part Application No. 12/969,566.

Petitioner has appointed a representative to conduct all business before the U.S. Patent and Trademark Office (Office). The Office will not engage in dual correspondence with petitioner and petitioner's representative. Accordingly, petitioner must conduct all future correspondence with this Office through the representative of record. If petitioner no longer wishes to be represented by the representative of record, then a revocation of the power of attorney or patent agent should be submitted. A correspondence address must be included on the correspondence instructing the Office where all future communications are to be mailed. *See* 37 CFR 1.33(a).

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 JoAnne Burke at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Lonnie E. Paulos
5 Portofino Drive, #2001
Pensacola Beach, FL 32561

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : January 26, 2012

In re Application of :

Ramon Berguer

Application No : 12011484

Filed : 24-Jan-2008

Attorney Docket No : 60156-0013

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed January 26, 2012

The request is **APPROVED.**

The request was signed by Kirk D. Wong (registration no. 43284) on behalf of all attorneys/agents associated with Customer Number 29989 . All attorneys/agents associated with Cusotmer Number 29989 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	Ramon Berguer
Name2	LifeGuard Surgical Systems
Address 1	65 Summers Avenue
Address 2	
City	Novato
State	CA
Postal Code	94945
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	12011484
Filing Date	24-Jan-2008
First Named Inventor	Ramon Berguer
Art Unit	3737
Examiner Name	DANIEL HUNTLEY
Attorney Docket Number	60156-0013
Title	Common bile duct surgical imaging system

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 29989

The reason(s) for this request are those described in 37 CFR:

10.40(c)(5)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Ramon Berguer LifeGuard Surgical Systems
Address	65 Summers Avenue
City	Novato
State	CA
Postal Code	94945
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/KirkDWong#43284/
Name	Kirk D. Wong
Registration Number	43284

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : January 26, 2012

In re Application of :

Ramon Berguer

Application No : 12011490

Filed : 24-Jan-2008

Attorney Docket No : 60156-0012

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed January 26, 2012

The request is **APPROVED.**

The request was signed by Kirk D. Wong (registration no. 43284) on behalf of all attorneys/agents associated with Customer Number 29989 . All attorneys/agents associated with Cusotmer Number 29989 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	Ramon Berguer
Name2	LifeGuard Surgical Systems
Address 1	65 Summers Avenue
Address 2	
City	Novato
State	CA
Postal Code	94945
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	12011490
Filing Date	24-Jan-2008
First Named Inventor	Ramon Berguer
Art Unit	3779
Examiner Name	PHILIP SMITH
Attorney Docket Number	60156-0012
Title	Common bile duct surgical imaging system

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 29989

The reason(s) for this request are those described in 37 CFR:

10.40(c)(5)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Ramon Berguer LifeGuard Surgical Systems
Address	65 Summers Avenue
City	Novato
State	CA
Postal Code	94945
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/KirkDWong#43284/
Name	Kirk D. Wong
Registration Number	43284

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Paper No.

Edwards Wildman Palmer LLP
P.O. Box 55874
Boston MA 02205

MAILED
DEC 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Calvert et al.	:	DECISION ON
Application No. 12/011,534	:	PETITION
Filed: January 28, 2008	:	
Atty Docket No. 52591	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed November 16, 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 June 9, 2009. A notice of appeal made timely, by an accompanying petition for extension of time within the third month, was filed on December 9, 2009. However, no appeal brief or further reply filed and no extension of time obtained, the application became abandoned effective February 10, 2010. A courtesy Notice of Abandonment was mailed on August 6, 2010.

The petition includes the required reply in the form of a request for continued examination (RCE)(RCE fee) and submission (an amendment), petition fee and the required statement of unintentional delay. All requirements of 37 CFR 1.137(b) have been met.

Technology Center AU 1795 has been advised of this decision. The application is, thereby, forwarded to the examiner for

consideration of the request for continued examination (RCE) and submission submitted on petition filed November 16, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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JAMES MARC LEAS
LAW OFFICE OF JAMES MARC LEAS
37 BUTLER DRIVE
S. BURLINGTON, VT 05403

MAILED

AUG 24 2010

OFFICE OF PETITIONS

In re Application of
David L. Churchill et al
Application No. 12/011,702
Filed: January 29, 2008
Attorney Docket No. 115-052

ON PETITION

This is a decision on the petition, filed August 17, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 1, 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 2837 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the 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).

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LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of :
Yuji Matsumoto et al. :
Application No. 12/011,853 : DECISION ON PETITION
Filed: January 30, 2008 :
Attorney Docket No. SIW-115 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181 and petition to expunge under 37 CFR 1.59(b), both filed June 23, 2010.

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.59(b) 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 and 37 CFR 1.59(b)."

As to the petition under 37 CFR 1.181:

This application was held abandoned for failure to reply to the non-final Office action mailed November 2, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 11, 2010.

Petitioner asserts that the Office action dated November 2, 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 must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy item 3. The "Due Date List By Date" shows an entry at the bottom of page 1 for application no 12/011,853 (docket no. SIW-0115), with a due date indicator of February 2, 2010. Petitioner's own documentation shows that the Office action mailed November 2, 2009 (thus with a response due date of February 2, 2010) was in fact received by petitioner.

Accordingly, absent the required evidence to establish nonreceipt of the Office action of November 2, 2009, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional.

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).

In regard to the petition under 37 CFR 1.59(b):

The petition requests expungement of information submitted in support of the petition to withdraw the holding of abandonment under 37 CFR 1.181. Specifically the petitioner requests

expungement of documentation of material, filed to support petitioner's position that the Office action was not received.

While the document may not be material to patentability in itself, the USPTO under the Administrative Procedures Act is required to maintain a complete record of the proceedings in a patent application. As it is necessary maintain a complete record of the evidence upon which a decision on the petition to withdraw the holding of abandonment was based the document will not be expunged.

It is suggested that a redacted version of the papers to be expunged be provided with the alleged proprietary material removed to be substituted for the papers filed with the instant petition.

The petition is further deficient because the petition does not clearly identify the document to be expunged. The petition makes reference to "Appendix A" and "Appendix B", however there are no papers submitted with the petitions that have any "Appendix" label.

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) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NELSON MULLINS RILEY & SCARBOROUGH LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

MAILED

FEB 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Yuji Matsumoto et al.	:	
Application No. 12/011,853	:	DECISION ON PETITION
Filed: January 30, 2008	:	
Attorney Docket No. SIW-115	:	

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 and petition to expunge under 37 CFR 1.59(b), filed December 9, 2010.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.59(b) 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 and 37 CFR 1.59(b)."

As to the petition under 37 CFR 1.181:

This application was held abandoned for failure to reply to the non-final Office action mailed November 2, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 11, 2010.

Petitioner asserts that the Office action dated November 2, 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 must be attached to and referenced in the practitioner's statement.

Although the "Due Date List By Date" shows an entry at the bottom of page 1 for application no 12/011,853 (docket no. SIW-0115), with a due date indicator of February 2, 2010, the renewed petition sets forth that this entry was made after the Notice of Abandonment was mailed and does not indicate the Office action was timely received. The renewed petition satisfies the above stated requirements.

In view of this showing, the holding of abandonment is withdrawn.

In regard to the petition under 37 CFR 1.59(b):

The renewed petition re-requests expungement of information submitted in support of the petition to withdraw the holding of abandonment under 37 CFR 1.181. Specifically the petitioner requests expungement of documentation of material, filed to support petitioner's position that the Office action was not received.

The petition decision mailed October 21, 2010 indicated that petitioner should file a redacted version of the papers to be expunged be filed. The renewed petition did not include a redacted version and the renewed petition is dismissed for the same reasons set forth in the petition decision mailed October 21, 2010.

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

This application is being referred to the Technology Center technical support staff of Art Unit 1795 for re-mailing the Office action of November 2, 2009. The period for reply will run from the mailing date of the Office action.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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NELSON MULLINS RILEY & SCARBOROUGH LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

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APR 19 2011

OFFICE OF PETITIONS

In re Application of	:	
Yuji Matsumoto et al.	:	
Application No. 12/011,853	:	DECISION ON PETITION
Filed: January 30, 2008	:	
Attorney Docket No. SIW-115	:	

This is a decision on the renewed petition under 37 CFR 1.59(b), filed March 11, 2011, to expunge information from the above identified application.

The petition is **granted**.

Petitioner requests that the docket log "Due Date List by Date" filed June 21, 2010, be expunged from the record. Petitioner states that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public.

A redacted version of the docket log was filed with the current petition.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been removed from the official file.

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

The application is being forwarded to Technology Center technical support staff of Art Unit 1725 for re-mailing of the Office action of November 2, 2009.

Carl Friedman
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT DOCKETING
ROOM 2A-207, ONE AT& T WAY
BEDMINSTER, NJ 07921

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Sid Chaudhuri, et al.	:	
Application No. 12/011,868	:	DECISION ON PETITION
Filed: January 30, 2008	:	
Attorney Docket No. 113420CON1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 25, 2010, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 30, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 31, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2613 for appropriate action by the Examiner in the normal course of business on the reply received June 25, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

cc: XIAOLEI SUN
WOLFF & SAMSON, PC
ONE BOLAND DRIVE
WEST ORANGE, NJ 07052

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : March 2, 2012

TO SPE OF : ART UNIT 3733.
SUBJECT : Request for Certificate of Correction for Appl. No.: 12/011905. Patent No.: 8075593.

Co f C mailroom date: 02-24-12.

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: [redacted]

Magdalene Talley
Certificates of Correction Branch
571-272-0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

xApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

/Eduardo C. Robert/ 3733
SPE **Art Unit**

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): 12/011,911	Patent Number (if applicable):
First Named Inventor: Hitoshi YAMAKADO	Title of Invention: DOCUMENT EDIT SUPPORT DEVICE AND STORAGE MEDIUM

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 /Bryant E. Wade/	Date March 29, 2011
Name (Print/Typed) Bryant E. Wade	Practitioner Registration Number 40,344

***Note**: Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.*

☐ *Total of 1 forms are submitted.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

MAILED

APR 05 2011

OFFICE OF PETITIONS

In re Application of	:	
Hitoshi Yamakado	:	
Application No. 12/011,911	:	DECISION ON PETITION
Filed: January 30, 2008	:	
Attorney Docket No. 9319P-002340	:	

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 December 21, 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 2177 for re-mailing the Office action of December 21, 2010. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/011,990	01/29/2008	Edward S. Boyden	0606-002-044-000000	1989

7590 02/01/2012
THE INVENTION SCIENCE FUND
CLARENCE T. TEGREENE
11235 SE 6TH STREET
SUITE 200
BELLEVUE, WA 98004

EXAMINER
SHAY, DAVID M

ART UNIT	PAPER NUMBER
3769	

MAIL DATE	DELIVERY MODE
02/01/2012	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Mimi Farmer

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NEAL SOLOMON
P. O. BOX 21297
OAKLAND CA 94620

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Neal Solomon	:	
Application No. 12/012,004	:	DECISION ON PETITION
Filed: January 30, 2008	:	
Title: Bioinformatics System	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 28, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed February 22, 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 April 23, 2008. A Notice of Abandonment was mailed October 29, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1).

With respect to item (1), petitioner has failed to submit the required $165.00 Basic filing fee, the $65.00 Surcharge fee; the $270.00 Search fee; and the $110.00 Examination fee, and $135.00 Excess pages fee. All of these fees are required in response to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed February 22, 2008.

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) 272-7751.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NEAL SOLOMON
P. O. BOX 21297
OAKLAND CA 94620

MAILED

OCT 28 2010

OFFICE OF PETITIONS

In re Application of	:	
Neal Solomon	:	
Application No. 12/012,004	:	DECISION ON PETITION
Filed: January 30, 2008	:	
Title: Bioinformatics System	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 6, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Petitioner contends that upon receiving the Notice, "I subsequently paid a filing fee of $580.00 for filing fees." Further petitioner asserts that "I am enclosing a copy of the check, which the PTO cashed." However, petitioner has submitted a copy of a check designated for **application number 11/133,492**. A review of USPTO records fails to reveal any of the required fees listed in the Notice mailed February 22, 2010 as having been submitted in the above-identified application. Additionally, petitioner has submitted a copy of a Certificate of Mailing under 37 CFR 1.10 dated February 4, 2008 for the **application number 11/133,492**.

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 (1)

Therefore, with respect to item (1), petitioner has failed to submit the required $165.00 Basic filing fee, the $65.00 Surcharge fee; the $270.00 Search fee; and the $110.00 Examination fee, and $135.00 Excess pages fee. All of these fees are required in response to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed February 22, 2008.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-7751.

Joan Olszewski
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

NEAL SOLOMON
P. O. BOX 21297
OAKLAND CA 94620

MAILED
JAN 31 2011
OFFICE OF PETITIONS

In re Application of	:	
Neal Solomon	:	
Application No. 12/012,004	:	DECISION ON PETITION
Filed: January 30, 2008	:	
Title: Bioinformatics System	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 3, 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 Notice to File Missing Parts of Nonprovisional Application (Notice) mailed February 22, 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 above-identified application became abandoned on April 23, 2008. A Notice of Abandonment was mailed on October 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the $65.00 Surcharge fee, the $255.00 Search fee, the $105.00 Examination fee and the $130.00 Excess pages fee (all previously paid on March 27, 2008), and the $165.00 Basic filing fee; (2) the petition fee of $810.00 (previously paid on June 28, 2010), and (3) a proper statement of unintentional delay.

Additionally, petitioner has submitted an unnecessary additional $25.00. This overage will be refunded to petitioner via treasury check in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision on petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IPHORGAN, LTD.
1130 LAKE COOK ROAD
SUITE 240
BUFFALO GROVE IL 60089

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Visvabharathy et al.	:	DECISION ON PETITION
Application No. 12/012,006	:	TO WITHDRAW
Filed: January 29, 2008	:	FROM RECORD
Attorney Docket No. HDC 0006 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 August 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 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 Sean S. Swidler, on behalf of the practitioners of record associated with Customer No 67339.

Customer No 67339 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 April 13, 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: DR. GANESAN VISVABHARATHY
HAWTHORNE DEVELOPMENT CORP.
100 TOWER DRIVE, SUITE 119
BURR RIDGE, IL 60527

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
12/012,006	01/29/2008	Ganesan Visvabharathy	HDC 0006 US

CONFIRMATION NO. 1263

POWER OF ATTORNEY NOTICE

67339
IPHORGAN, LTD.
1130 LAKE COOK ROAD
SUITE 240
BUFFALO GROVE, IL 60089

OC000000043798385

Date Mailed: 09/30/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/10/2010.

- 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.

/atkelley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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DYAX CORP
C/O WOLF GREENFIELD & SACKS PC
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED

SEP 19 2011

OFFICE OF PETITIONS

In re Application	:	
Dransfield, et al.	:	
Application No. 12/012,011	:	DECISION ON APPLICATION
Filed: January 30, 2008	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. D0617.70013US02	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(B)", filed September 9, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred nine (509) days to eight hundred one (801) days.

The application for patent term adjustment is **DISMISSED.**

On June 9, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is five hundred nine (509) days. On September 9, 2011, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that they should not have been assessed applicant delay of two hundred ninety-two (292) days, but rather zero (0) days.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

---

[1] Applicants filed the application for patent term adjustment together with the payment of the issue fee.

The Office initially determined a patent term adjustment of five hundred nine (509) days based on an adjustment of eight hundred one (801) days of PTO delay pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 CFR 1.703(a)(1), reduced by two hundred ninety-two (292) days of Applicant delay pursuant to 37 CFR 1.704(b).

Applicants argue that they should not have been assessed two hundred ninety-two (292) days of Applicant delay for filing a late response to a Notice to File Missing Parts mailed on June 3, 2009. This Notice required the missing statutory basic filing fee, oath or declaration, and replacement drawings (because the line quality was not of acceptable quality). A review of the record confirms that Applicants filed a reply on January 4, 2010, made timely for purposes of avoiding abandonment by including a five month extension of time, and by the fact that January 3, 2010 fell on a Sunday. See 37 CFR 1.7(a). However, on April 22, 2010, the Office mailed a Notice to File Corrected Application Papers, stating that replacement drawings were still required. Applicants timely filed a reply (for abandonment purposes) on June 22, 2010.

Applicants' argument has been considered, but is not persuasive. Applicants' January 4, 2010 reply was not timely filed pursuant to 37 CFR 1.704(b), and as such, Applicants should have been assessed one hundred twenty-three (123) days. Furthermore, the reply contained an omission, as evidenced by the subsequent mailing of the Notice to File Corrected Application Papers. As such, Applicants should have been assessed one hundred sixty-nine (169) days for filing their reply correcting the omission on June 22, 2010. Therefore, total applicant delay was two hundred ninety-two (292) days.

In addition, Applicants argue that they should not have been assessed delay, due to the fact that the Office mailed a letter on April 22, 2010, stating that Applicants may disregard the June 3, 2009 Notice to File Missing Parts. Applicants' argument has been considered, but is not persuasive.

The USPTO appreciates that there may be situations in which it is appropriate to treat an Office action or notice issued in an application as void *ab initio* and as if the USPTO had never issued the Office action. However, these would be extremely rare situations, such as the issuance of an Office action or notice by an employee who does not have the authority to issue that type of Office action or notice, the issuance of an Office action or notice in the wrong application, or the issuance of an Office action or notice containing language not appropriate for inclusion in an official document. In essence, the situations in

which it is appropriate to treat an Office action or notice issued in an application as void *ab initio* and as if the USPTO had never issued the Office action are the situations in which it is appropriate to expunge an Office action or notice from the USPTO's record of the application. That is simply not the case here.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **five hundred nine (509) days.**

Receipt of the $200 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ADVANTEDGE LAW GROUP, LLC
922 W. BAXTER DRIVE
SUITE 100
SOUTH JORDAN UT 84095

MAILED
SEP 16 2011
OFFICE OF PETITIONS

In re Application of	:	
Issei Yokoyama	:	
Application No. 12/012,018	:	DECISION GRANTING PETITION
Filed: January 31, 2008	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1013.1098A	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, September 15, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 30, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2624 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

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Alexandria, VA 22313-1450
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MAILED
NOV 15 2011
OFFICE OF PETITIONS

CARR & FERRELL LLP
120 CONSTITUTION DRIVE
MENLO PARK CA 94025

In re Application of	:	
Gail Jansen et al.	:	
Application No. 12/012,044	:	DECISION ON PETITION
Filed: January 30, 2008	:	TO WITHDRAW
Attorney Docket No. PA4311US	:	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 31, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because a forwarding address was not provided. The request to change the correspondence address should be that of the: (1) the first named signing inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has intervened in this application then a Statement under 37 CFR 3.73(b), or a copy of the actual assignment must be submitted with a renewed request.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CARR & FERRELL LLP
120 CONSTITUTION DRIVE
MENLO PARK CA 94025

MAILED
DEC 05 2011
OFFICE OF PETITIONS

In re Application of	:	
Gail Jansen et al.	:	
Application No. 12/012,044	:	DECISION ON PETITION
Filed: January 30, 2008	:	TO WITHDRAW
Attorney Docket No. PA4311US	:	FROM RECORD
	:	

This is a corrected decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 31, 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 James W. Drapinski on behalf of all attorneys/agents associated with customer number 22830. All attorneys/agents associated with customer number 22830 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: Total Comco, Inc.
400 South Beverly Hills Drive, Penthouse Suite
Beverly Hills, CA 90212

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
12/012,044	01/30/2008	Gail Jansen	PA4311US

CONFIRMATION NO. 1602

22830
CARR & FERRELL LLP
120 CONSTITUTION DRIVE
MENLO PARK, CA 94025

POWER OF ATTORNEY NOTICE

OC000000051291982

Date Mailed: 12/05/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/31/2011.

- 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/21/11

TO SPE OF : ART UNIT: 1711

SUBJECT : Request for Certificate of Correction for Appl. No.: 12/012,077 Patent No. 7,913,524

CofC mailroom date 7/5/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

XApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

Michael Barr

SPE

1711

Art Unit

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

JUN 08 2011

OFFICE OF PETITIONS

DILWORTH & BARRESE, LLP
1000 WOODBURY ROAD
SUITE 405
WOODBURY, NY 11797

In re Application of	:	
Longo et al.	:	DECISION ON PETITION
Application No. 12/012,085	:	TO WITHDRAW
Filed: January 31, 2008	:	FROM RECORD
Attorney Docket No. 1206-10	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 21, 2011.

The request is **NOT APPROVED.**

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

A review of the file record does not indicate that a Statement Under 37 CFR 3.73(b) by the assignee has been filed in the instant application, therefore the request cannot be approved at this time.

There is an outstanding Office action mailed on April 12, 2011, that requires a reply from the applicant.

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059.

A. Kelley-Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DILWORTH & BARRESE, LLP
1000 WOODBURY ROAD
SUITE 405
WOODBURY, NY 11797

MAILED
JUN 24 2011
OFFICE OF PETITIONS

In re Application of Longo et al. Application No. 12/012,085 Filed: January 31, 2008 Attorney Docket No. 1206-10	: : : : :	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 June 14, 2011.

The request is **NOT APPROVED.**

Petitioner is reminded that 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.* 37 CFR 3.71(c) states that 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.

However, since a review of the file record does not disclose that a Statement Under 37 CFR 3.73(b) has been filed by the assignee in the above identified instant application, the request cannot be approved at this time.

There is an outstanding Office action mailed on April 12, 2011, that requires a reply from the applicant.

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059.

A. Kelley Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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DILWORTH & BARRESE, LLP
1000 WOODBURY ROAD
SUITE 405
WOODBURY, NY 11797

MAILED

JUL 18 2011

OFFICE OF PETITIONS

In re Application of Longo et al. Application No. 12/012,085 Filed: January 31, 2008 Attorney Docket No. 1206-10	: : : : :	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 June 30, 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 Leo G. Lenna on behalf of all the practitioners of record associated with Customer Number 28249.

Customer Number 28249 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 April 12, 2011, 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 Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

cc: FRANK N. LONGO
59 LORIJEAN LANE
NORTHPORT, NY 11731

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/012,085	01/31/2008	Frank N. Longo	1206-10

CONFIRMATION NO. 1805

POWER OF ATTORNEY NOTICE

28249
DILWORTH & BARRESE, LLP
1000 WOODBURY ROAD
SUITE 405
WOODBURY, NY 11797

OC000000048833519

Date Mailed: 07/18/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/30/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/akelley-collier/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/25/11

TO SPE OF : ART UNIT 2835

SUBJECT : Request for Certificate of Correction for Appl. No.: 12012089 Patent No.: 7733639

CofC mailroom date: 03/16/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

You can fax the Director's SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** /I.W./ — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:_____

_____ **SPE** _____ **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAN M. DELAROSA, ESQ.
SUITE 24C
300 E 77TH STREET
NEW YORK, NY 10075

MAILED

AUG 10 2011

OFFICE OF PETITIONS

In re Application of :
Robert DeMars :
Application No. 12/012,139 : ON PETITION
Filed: January 31, 2008 :
Attorney Docket No.: P- 0145 US :

This is a decision on the petition, filed August 1, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed April 1, 2011. A Notice of Abandonment was mailed on July 20, 2011. On August 1, 2011, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings; (2) the petition fee of $810 and (3) an adequate statement of unintentional delay.

Accordingly, the petition is **GRANTED**.

The application is being referred to the Office of Data Management to oversee the review of the drawing filed on August 1, 2011.

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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PAUL W. MARTIN
NCR CORPORATION, LAW DEPT.
3097 SATELLITE BLVD., 2nd FLOOR
DULUTH GA 30096

MAILED
DEC 06 2011
OFFICE OF PETITIONS

In re Application of	:	
Forsyth, et al.	:	
Application No. 12/012,162	:	ON PETITION
Filed: January 31, 2008	:	
Attorney Docket No. **13387.00**		

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 under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned March 15, 2011, for failure to file a timely appeal brief after filing a Notice of Appeal on January 14, 2011. A Notice of Abandonment was mailed September 29, 2011.

The Request for Continued Examination and amendment filed November 15, 2011, are noted.

The application file is being forwarded to Technology Center, GAU 2887 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Daniel D. Ryan
RYAN KROMHOLZ & MANION, S.C.
Post Office Box 26618
Milwaukee WI 53226-0618

MAILED

FEB 01 2012

OFFICE OF PETITIONS

In re Application of :
Thompson, et al. :
Application No. 12/012,186 : ON PETITION
Filed: January 31, 2008 :
Attorney Docket No. 9345.17121-CIP 2C DIV :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 19, 2012, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned February 16, 2011 for failure to timely submit a proper reply to the final Office action mailed November 15, 2010. Notice of Abandonment was mailed May 18, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including fee and submission required by 37 CFR 1.114; (2) the required petition fee; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 3737 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES 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 17 2011

OFFICE OF PETITIONS

LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

In re Application of	:	
JUNG, et al	:	
Application No. 12/012,216	:	DECISION ON PETITION
Filed: January 30, 2008	:	TO WITHDRAW
Attorney Docket No. QQ1-0178US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 25, 2011.

The request is **NOT APPROVED.**

The request to withdraw from record cannot be approved because the request to change the correspondence address is not accompanied by a power of attorney nor is the correspondence address that of an assignee of the entire interest who has been properly made of record under 37 CFR 3.71 or the first named inventor.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

November 17, 2011

MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FIFTH FLOOR
720 WATER STREET
TOLEDO OH 43604-1619

Re Application of
GOODELL, BARRY S., ET AL
Application: **12/012236**
Filed: **01/31/2008**
Attorney Docket No: **1-28780**

: **DECISION ON PETITION**
: **ACCEPTANCE OF COLOR**
: **DRAWINGS**

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) December 22, 2010.

The petition is **GRANTED**.
A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

   "The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KEATY LAW FIRM, LLC
365 CANAL STREET
Suite 2410
NEW ORLEANS LA 70130

MAILED
AUG 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Nick Provezano et al.	:	
Application No. 12/012,289	:	DECISION ON PETITION
Filed: February 1, 2008	:	
Attorney Docket No. P07-2482	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 1, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 17, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 18, 2010. A Notice of Abandonment was mailed on April 6, 2011.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(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 lack items (1) and (3).

As to item (1), the amendment filed on December 22, 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), an RCE, or the filing of a continuing application under 37 CFR 1.53(b). See attached courtesy copy of the advisory action, mailed June 10, 2011.

As to item (3) the statement of unintentional delay is presently not acceptable since the statement of unintentional delay was not properly signed. The petition was not signed by all of the inventors. See 37 CFR 1.33(b) which states:

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

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: Joseph Lentini
5520 Erlanger Road
Kenner, LA 70065

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE PROCTER & GAMBLE COMPANY
GLOBAL LEGAL DEPARTMENT - IP
SYCAMORE BUILDING - 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI, OH 45202

MAILED

NOV 05 2010

OFFICE OF PETITIONS

In re Application of	:
Massimino et al.	: DECISION GRANTING PETITION
Application No. 12/012,318	: UNDER 37 CFR 1.78(a)(3)
Filed: February 1, 2008	:
Attorney Docket No. P190	:

This is a decision on the petitions under 37 CFR § 1.78(a)(3), filed July 19, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed nonprovisional Application No. 10/842,301, filed May 10, 2004, as 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) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR § 1.78(a)(2)(ii). In addition, the petition under 37 CFR § 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR § 1.78(a)(2)(ii).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

Petitioner should note that the required petition surcharge fee under 37 CFR 1.17(t), in the amount of $1,410 will be charged to the deposit account as authorized.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR § 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed application, accompanies this decision on petition.

Any questions concerning this matter may be directed to Alicia Kelley at (571) 272-6059.

This matter is being referred to Technology Center Art Unit 1651 for appropriate action on the amendment submitted July 19, 2010, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional application.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
12/012,318	02/01/2008	1651	2590	P190	35	5

CONFIRMATION NO. 3041

CORRECTED FILING RECEIPT

27752
THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

OC000000044370182

Date Mailed: 11/05/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Stefan Patrick Massimino, Portland, OR;
Gary Mitchell Davenport, Dayton, OH;
Michael Griffin Hayek, Dayton, OH;
George Roth, Pylesville, MD;
Donald K. Ingram, Ellicott City, MD;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/898,854 02/01/2007
and is a CIP of 10/842,301 05/10/2004 PAT 7,666,459

Foreign Applications

If Required, Foreign Filing License Granted: 02/21/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/012,318**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method for decreasing inflammation and oxidative stress in mammals

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Lesavich High-Tech Law Group, P.C.
Suite 325
39 S. LaSalle Street
Chicago IL 60603

MAILED
MAY 3 1 2011
OFFICE OF PETITIONS

In re Application of	:	
Benjamin D. Levine et al.	:	
Application No. 12/012,337	:	DECISION ON PETITION
Filed: January 31, 2008	:	TO WITHDRAW
Attorney Docket No. 04,119-D	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 3, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because no forwarding address was provided. The request to change the correspondence address should be that of the: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has intervened in this application then a Statement under 37 CFR 3.73(b), or a copy of the actual assignment must be submitted with a renewed request.

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
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J. BENNETT MULLINAX, LLC
P. O. BOX 26029
GREENVILLE, SC 29616-1029

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of
Ingo DOHRENDOF
Application No. 12/012,349
Filed: February 1, 2008
Attorney Docket No. **EPL-1**

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 4, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed August 4, 2010. Accordingly, the date of abandonment of this application is November 5, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to the Office of Data Management Division for processing into a patent.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ISABELLE R. MCANDREWS
P.O. BOX 3074
FREMONT CA 94539

MAILED

NOV 15 2010

OFFICE OF PETITIONS

In re Application of	:	
James D. Pylant et al	:	
Application No. 12/012,371	:	DECISION GRANTING PETITION
Filed: February 1, 2008	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PI-037	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 12, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 13, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3728 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the IDS filed October 19, 2010.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT L. RISPOLI
PRECISION COMBUSTION, INC.
410 SACKETT POINT ROAD
NORTH HAVEN, CT 06473

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of
WILLIAM C. Pfefferle
Application No. 12/012,397
Filed: January 31, 2008
Attorney Docket No. MOI 308B

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 July 30, 2010, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from applicant's representative stating the he is in possession of proof of applicant's age. 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 3741 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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PTT LLC (D/B/A HIGH 5 GAMES)
1200 MACARTHUR BLVD
MAHWAH NJ 07430

MAILED
APR 13 2012
OFFICE OF PETITIONS

In re Application of	:	
Marks et al.	:	
Application No. 12/012,399	:	DECISION ON PETITION
Filed: February 1, 2008	:	PURSUANT TO
Attorney Docket No. RELATIVE	:	37 C.F.R. § 1.137(B)
SYMBOLS	:	
Title: METHODS OF EXPANDING	:	
SYMBOLS BASED UPON RELATIVE	:	
LOCATION OR SAID SYMBOLS TO	:	
EACH OTHER IN A SYMBOL	:	
MATRIX	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed March 19, 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 in a timely manner to a non-final Office action, mailed May 16, 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 17, 2011. A notice of abandonment was mailed on January 6, 2012.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the

required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted an amendment, the petition fee, and the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable.

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on March 19, 2012 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning this application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAE SYSTEMS
Patent Dept.
NHQ1-719
PO Box 868
Nashua NH 03061-0868

MAILED
JAN 30 2012
OFFICE OF PETITIONS

In re Patent No. 7,894,128	:	
Issue Date: February 22, 2011	:	
Application No. 12/012,401	:	DECISION ON PETITION
Filed: February 1, 2008	:	
Attorney Docket No. 20060336	:	

This is a decision on the petition under 37 CFR 1.182, filed January 5, 2012, 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 petitioners' deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. Inquiries regarding the issuance of duplicate Letters Patent may be directed to Kimberly Terrell in the Office of Data Management at (703) 756-1568.

A copy of this decision is being sent to Office of Data Management for issuance of duplicate Letters Patent.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

cc: Kimberly Terrell, (Fax No. 571-270-9958)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAILED
MAR 25 2011
OFFICE OF PETITIONS

LUKINS & ANNIS
717 WEST SPRAGUE AVE., SUITE 1600
SPOKANE, WA 99201

In re Application of Vaughn :
Application No. 12/012,445 :
Filing Date: February 4, 2008 :
Attorney Docket No. Vaughn-Mudflaps :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2010, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed July 23, 2010, which set a statutory period for reply of three (3) months. The application became abandoned on Tuesday, October 26, 2010. A Notice of Abandonment was mailed on November 5, 2010.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995, or if the application is a design application.

The petition satisfies the requirements of 37 CFR 1.137(b) in so far the petition includes a reply in the form of payment of the issue fee and publication, the required petition fee of $810, and the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

The Office of Data Management, Patent Publication Branch, will be informed of the instant decision and the application will be issued as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ZOLTAN EGERESI
5500 COAST ROAD
SANTA CRUZ CA 95060

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Application of	:	
Egeresi	:	
Application No. 12/012,457	:	DECISION
Filed/Deposited: 4 February, 2008	:	
Attorney Docket No. (None)	:	

This is a decision on the petition filed on 16 February, 2011, and again on 22 February, 2011, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition pursuant to 37 C.F.R. §1.181 is **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. §1.181."

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 under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Non-Compliant Amendment mailed on 2 December, 2009 (the 2 December, 2009, Notice) (a copy of which is enclosed herewith for Petitioner's reply on submission of a properly responsive petition), with required reply due absent extension of time on or before 2 January, 2010.

The application went abandoned by operation of law after midnight 2 January, 2010.

The Office mailed the Notice of Abandonment on 10 March, 2010.

On 16 February, 2011, and again on 22 February, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and averred, *inter alia*, non-receipt of the Office action, and averred non-receipt of the 2 December, 2009, Notice. However, Petitioner provided none of the documentation (a docket sheet for the application and a due date calendar for Petitioner's office for 2 January, 2010) and none of the statements required (see below and the guidance in the Commentary at MPEP §711.03(c)(I)). The record reflects that the Notice was directed to the correspondence address of record. Thus, Petitioner fails to make the proper showing herein pursuant to the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below. Further, Petitioner's request for relief pursuant to 37 C.F.R. §1.181 was not timely under the Rule (see below).

Petitioner has not completed the showing as discussed below in the citation from the Manual of Patent Examining Procedure (MPEP). It appears that Petitioner may be unable to make that showing and so is reminded that the proper vehicle for revival of the application is the submission of a petition abandonment pursuant to 37 C.F.R. §1.137(b), and the failure to do so timely may be considered delay that is other than unintentional.

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).

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

[1] *See*: MPEP §711.03(c) (I)(A).

> 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.

[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).

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.)

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

MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

MAILED

MAR 16 2011

OFFICE OF PETITIONS

In re Application of	:	
Jung et al.	:	DECISION ON PETITION
Application No. 12/012,504	:	TO WITHDRAW
Filed: January 31, 2008	:	FROM RECORD
Attorney Docket No. QQ1 - 0084US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2011.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> ***An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.***

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. The Customer Number 55922 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71 As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Application of	:	
Xiaowei Zhuang	:	
Application No. 12/012,524	:	DECISION ON PETITION
Filing Date: 01 February 2008	:	
For: SUB-DIFFRACTION LIMIT RANGE IMAGE	:	
RESOLUTION AND OTHER IMAGING	:	
TECHNIQUES		

This is a decision on the petition under 37 CFR § 1.48(a) filed January 20, 2010. On January 20, 2010, the present petition and authorization to charge counsel's credit card the fee of $130.00 were filed. Petitioner requests amendment of the inventorship to add Graham Dempsey. In support of the petition, a statement from inventor Graham Dempsey stating that the error in inventorship arose without deceptive intent on his part, has been submitted. Petitioners request that the actual inventorship be given as Xiaowei ZHUANG, Wilfred M. BATES, Michael J. RUST, Bo HUANG and Graham DEMPSEY.

37 CFR 1.48 Correction of inventorship states, in part:

(a) If the inventive entity is set forth in error in an executed 1.63 oath or declaration in an application, other than a reissue application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the application may be amended to name onth the actual inventor or inventors. . . . Such amendment must be accompanied by:

(1) A petition including a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or herpart;

(2) An oath or declaration by each actual inventor or inventors as required by § 1.63 or as permitted by 1.42, 1.43 or 1.47;

(3) The fee set forth in § 1.17(i); and

(4) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 3.73(b)).

A review of the record reveals that petitioner has not complied with all the conditions in 37 CFR § 1.48(a). The assent of assignee is not given by a recognized representative of the assignee. MPEP 324 V indicates who may sign for the assignee:

> *The submission establishing ownership must be signed by a party authorized to act on behalf of the assignee. The submission under 37 CFR 3.73(b) may be signed on behalf of the assignee in the following manner if the assignee is an organization (e.g., corporation, partnership, university, government agency, etc.):*
>
> *(A) The submission may be signed by a person in the organization having apparent authority to sign on behalf of the organization. 37 CFR 3.73(b)(2)(ii). An officer (chief executive officer, president, vice-president, secretary, or treasurer) is presumed to have authority to sign on behalf of the organization. The signature of the chairman of the board of directors is acceptable, but not the signature of an individual director. Modifications of these basic titles are accept -able, such as vice-president for sales, executive vice-president, assistant treasurer, vice-chairman of the board of directors. In foreign countries, a person who holds the title "Manager" or "Director" is normally an officer and is presumed to have the authority to sign on behalf of the organization. A person having a title (administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to have authority to sign the submission on behalf of the assignee. A power of attorney (37 CFR 1.32(b)(4)) to a patent practitioner to prosecute a patent application executed by the applicant or the assignee of the entire interest does not make that practitioner an official of an assignee or empower the practitioner to sign the submission on behalf of the assignee.*
>
> *(B) The submission may be signed by any person, if the submission sets forth that the person signing is authorized (or empowered) to act on behalf of the assignee, i.e., to sign the submission on behalf of the assignee. 37 CFR 3.73(b)(2)(i).*
>
> *(C) The submission may be signed by a person empowered by an organizational resolution (e.g., corporate resolution, partnership resolution) to sign the submission on behalf of the assignee, if a copy of the resolution is, or was previously, submitted in the record.*
>
> *Where a submission does not comply with (A), (B), or (C) above, evidence of the person's authority to sign will be required.*

"Authorized officer" is not a recognized title and Mr. Benson is not recognized on the Statement under 37 CFR 3.73(b). The petition is denied. Applicant is invited to submit a new copy of the assent of assignee in order to request reconsideration of this decision.

PETITION DENIED

/Jill Warden/
Supervisory Patent Examiner
Technology Center 1700

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.
12/012,525	02/01/2008	John Knopf	PHPH-025-101	3022

28120 7590 04/03/2012
ROPES & GRAY LLP
IPRM - Floor 43
PRUDENTIAL TOWER
800 BOYLSTON STREET
BOSTON, MA 02199-3600

EXAMINER
BORGEEST, CHRISTINA M

ART UNIT	PAPER NUMBER
1649	

NOTIFICATION DATE	DELIVERY MODE
04/03/2012	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):

USPatentMail@ropesgray.com
USPatentMail2@ropesgray.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

April 2, 2012

ROPES & GRAY LLP
IPRM - Floor 43
PRUDENTIAL TOWER
800 BOYLSTON STREET
BOSTON MA 02199-3600

In re Application of	:	
KNOPF, JOHN et al	:	**DECISION ON PETITION**
Application No. 12/012,525	:	
Filed: 02/01/2008	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. PHPH-025-101	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) January 14, 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, (One (1) set for EFW filings, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

   "The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the requirements above. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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QUINN EMANUEL URQUHART OLIVER & HEDGES, LLP
KODA/ANDROLIA
10TH FLOOR
865 S. FIGUEROA STREET
LOS ANGELES, CA 90017

MAILED
OCT 20 2010
OFFICE OF PETITIONS

Patent No. 7,815,378	:	
Application No. 12/012,567	:	
Filed: February 4, 2008	:	
Issued: October 19, 2010	:	NOTICE
Attorney Docket No. 21580/181A 4104	:	
	:	

This is a notice regarding your request for acceptance of a fee deficiency submission filed August 30, 2010, under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/012,571	02/04/2008	Dennis Jarret Guill JR.	MPCS-28371	5364

25883 7590 10/07/2011
HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS, TX 75374-1715

EXAMINER
RAMPURIA, SHARAD K

ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
04/12/12	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@dalpat.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

April 11, 2012

HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS TX 75374-1715

Re Application of
GUILL, DENNIS JARRET JR.
Application: **12/012571**
Filed: **02/04/2008**
Attorney Docket No: **MPCS-28371**

: DECISION ON PETITION
: ACCEPTANCE OF COLOR
: DRAWINGS

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) February 4, 2008.
The petition is **GRANTED**.
A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

   "The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
NOV 19 2010
OFFICE OF PETITIONS

FRANK SVETLIK
SUITE 1700
ONE RIVERWAY
HOUSTON TX 77056

In re Application of	:	
Dan Leitner	:	
Application No. 12/012,573	:	ON PETITION
Filed: February 4, 2008	:	
Attorney Docket No. Bw-02	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed September 10, 2010.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action, mailed March 2, 2010. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on June 3, 2010. The Office mailed a Notice of Abandonment on September 14, 2010.

With the instant petition, applicant made the proper statement of unintentional delay, paid the petition fee, and filed the required reply in the form of an Amendment.

The application is being forwarded to Group Art Unit 3744 for consideration of the Amendment, filed September 10, 2010.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Frank Svetlik
Suite 1700
One Riverway
Houston TX 77056

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Dan Leitner	:	
Application No. 12/012,573	:	DECISION ON PETITION
Filed: February 4, 2008	:	
Attorney Docket No. BW-02	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 29, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 23, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed December 23, 2010. Accordingly, the date of abandonment of this application is March 24, 2011. A Notice of Abandonment was mailed on April 7, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $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

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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MAILED

AUG 27 2010

OFFICE OF PETITIONS

Peter Douglas Jack
122 - 7198 Vantage Way
Delta, B.C. V4G 1K7 CA CANADA

In re Application of :
Jack, et al. :
Application No. 12/012,600 : ON PETITION
Filed: February 5, 2008 :
Attorney Docket No.

This is a decision on the second renewed petition under 37 CFR 1.137(b) filed August 6, 2010.

The second renewed petition is GRANTED.

The above-identified application became abandoned for failure to reply to the Notice of Allowance and Issue Fee Due mailed November 30, 2009, which set a statutory period for reply of three-months from its mailing date. No response was received within the allowable period, and the application became abandoned on March 1, 2010. A Notice of Abandonment was mailed on March 15, 2010.

The issue fee and publication fee were received on April 1, 2010.

The application file is being directed to the Office of Data Management 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

SEP 27 2010

OFFICE OF PETITIONS

Kurt D. Shutes
1815 S. Olsen Ave
Tucson AZ 85713

In re Application of	:	
Kurt D. Shutes, et al.	:	
Application No. 12/012,628	:	ON PETITION
Filed: February 4, 2008	:	
	:	

This is in response to the renewed communication, filed August 19, 2010, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On October 7, 2009, the Office mailed a Non-Final Office action, which set a three (3) month shortened statutory period to reply. On April 29, 2010, the Office mailed a Notice of Abandonment.

In the present petition, petitioner has supplied a copy of the postcard receipt stamped by the USPTO on January 11, 2010, for a reply allegedly mailed in response to the Office action noted above.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record shows that the petitioner's postcard receipt was received and date stamped on January 11, 2010 by the USPTO. The reply to the Non-Final Office action mailed October 7, 2009 was due on or before January 7, 2010. The petitioner's reply did not arrive at the USPTO until January 11, 2010, as evident from the date stamp on the postcard receipt. Also, the postcard receipt supplied by the petitioner did not properly itemize and identify the papers which were being filed at the USPTO.

In the present petition, petitioner did not submit the necessary documentary evidence to prove that a reply to the Non-Final Office action mailed October 7, 2009 was timely filed. As a timely

reply to the Office action of October 7, 2009, was not received, the instant application became abandoned by law on October 8, 2009.

Therefore, the petition to withdraw the holding of abandonment is **dismissed**.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$810 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810 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

Telephone inquiries related to this decision may be directed to Terri Johnson at (571) 272-2991.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64 & Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kurt D. Shutes
1815 S. Olsen Ave
Tucson AZ 85713

MAILED
DEC 14 2010
OFFICE OF PETITIONS

In re Application of :
Kurt D. Shutes, et al. :
Application No. 12/012,628 : ON PETITION
Filed: February 4, 2008 :
:

This is in response to the renewed communication, filed November 8, 2010, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment, under the provisions of 37 CFR 1.181 (No Fee).

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 7, 2009, the Office mailed a Non-Final Office action, which set a three (3) month shortened statutory period to reply. On April 29, 2010, the Office mailed a Notice of Abandonment.

In the present petition, petitioner asserts that a timely reply was mailed on January 7, 2020. Petitioner has supplied a copy of the postcard receipt stamped by the USPTO on January 11, 2010, for a reply allegedly mailed on January 7, 2010 in response to the Office action noted above.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record shows that the petitioner's postcard receipt was received and date stamped on January 11, 2010 by the USPTO. The reply to the Non-Final Office action mailed October 7, 2009 was due on or before January 7, 2010. The postcard receipt indicates that any papers included therewith did not arrive at the USPTO until January 11, 2010. However, as the date-stamped postcard receipt supplied by the petitioner ***does not properly itemize and identify the papers***, it is not clear as to the identity of the papers associated therewith. There is no evidence that the papers included a request for any extensions of time. The copy of the response

allegedly submitted for mailing on January 7, 2010, included with the previously filed petitions, did not include a certificate of mailing.

Petitioner has not submitted the necessary documentary evidence to prove that a reply to the Non-Final Office action mailed October 7, 2009 was timely filed. As a reply to the Office action of October 7, 2009, was not timely received, the instant application became abandoned by law on January 8, 2010.

Therefore, the petition to withdraw the holding of abandonment is **dismissed**.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$810 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810 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:

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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

Telephone inquiries related to this decision may be directed to Terri Johnson at (571) 272-2991.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64 & Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
JUN. 15 2011
OFFICE OF PETITIONS

WILMERHALE/NEW YORK
399 PARK AVENUE
NEW YORK NY 10022

In re Application of	:	
Pichit Suvanprakorn et al.	:	
Application No. 12/012,647	:	DECISION ON PETITION
Filed: February 5, 2008	:	TO MAKE SPECIAL UNDER
Attorney Docket No. **2203420.00121US2**	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 2, 2011, to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by the inventor. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

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 AU 1613 for action on the merits commensurate with this decision.

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.
12/012,652	02/04/2008	John Knopf	PHPH-024-101	2548

7590 10/26/2010

ROPES & GRAY LLP
IPRM - Floor 43
PRUDENTIAL TOWER
800 BOYLSTON STREET
BOSTON, MA 02199-3600

EXAMINER
KEMMERER, ELIZABETH

ART UNIT	PAPER NUMBER
1646	

MAIL DATE	DELIVERY MODE
10/26/2010	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

October 25, 2010

ROPES & GRAY LLP
IPRM - Floor 43
PRUDENTIAL TOWER
800 BOYLSTON STREET
BOSTON MA 02199-3600

In re Application of	:	
John Knopf, et al	:	**DECISION ON PETITION**
Application No. 12012652	:	
Filed: 02/04/2008	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **PHPH-024-101**	:	***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 4, 2008.

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

RICHARD A. RYAN
ATTORNEY AT LAW
440 W. FALLBROOK AVENUE,SUITE 104
FRESNO, CA 93711

MAILED

MAR 03 2011

OFFICE OF PETITIONS

In re Application of
Babak ROSHDIEH, et *al.*
Application No. 12/012,692
Filed: February 1, 2008
Attorney Docket No. **RAR783.01**

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 7, 2008, 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 the drivers license of inventor Mohamed-Reza Mortazavi-Tabrizi, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Technology Center at (571) 272-1600.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

The application is being forwarded to the Technology Center Art Unit 3736 for action on the merits commensurate with this decision.

/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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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton NJ 08543-5312

MAILED

AUG 22 2011

OFFICE OF PETITIONS

In re Application of
TAPIE et al.
Application No. 12/012,694
Filed: 02/05/2008
Attorney Docket No. PF070012

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 3, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed October 29, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 30, 2010. A Notice of Abandonment was mailed on July 12, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2462 for appropriate action by the Examiner on the reply received on August 3, 2011.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW Nov-10

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
Columbia Center
701 Fifth Avenue, Suite 6100
SEATTLE WA 98104-7043

MAILED

NOV 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Gopalapuram et al.	:	
Application Number: 12/012725	:	ON PETITION
Filing Date: 02/01/2008	:	
Attorney Docket Number:	:	
P191490.US.01		

This is a decision in reference to the PETITION UNDER 37 CFR 1.47(a) filed on September 2, 2010, which is treated as a (a) a petition a) a petition under 37 CFR 1.48(a)(1) requesting a person be added as a named inventor; and (b) petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.64 which requires that a named inventor execute a supplemental declaration.

The petition is **DISMISSED**.

Applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183 and 1.48," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

On February 1, 2008, the above-identified application was filed. On May 13, 2009, a declaration naming Praveen Gopalapuram, Mani Kumaran, and Tamleigh Ross as joint inventors was filed.

On September 2, 2010, the present petitions were filed. Petitioners request that Kenneth C. Dyer be added as a named

inventor. Petitioners further request waiver under 37 CFR 1.183 of 1.48(a)(1) in as much as Gopalapuram could not be reached to sign the declaration and Kumaran refuses to execute the supplemental declaration naming them as a joint inventor along with Kenneth C. Dyer and Tamleigh Ross.

Petition Under 37 CFR 1.48(a).

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The petition lacks item (2). As discussed *infra*, the decision his held in abeyance pending submission of a declaration signed by an appropriate party on behalf of the inventors.

Petition Under 37 CFR 1.183 to waive 1.64.

Petitioners assert that a copy of the application papers and supplemental declaration were sent to Gopalapuram and Kumaran at their last known addresses. The mailing to Gopalapuram, however, was returned as "unclaimed" to the sender. Petitioners further state, via the statement of Alexandra L. Beggs, counsel's paralegal, that attempts were made by email to contact Gopalapuram and verify his address, but that no response was received.

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

There is no requirement for a showing under 37 CFR 1.47 with regard to joint inventors Gopalapuram and Kumaran, as noted above. This application bears an original Declaration executed by joint inventors Gopalapuram and Kumaran, and thus, the provisions of 37 CFR 1.47 do not apply with regard to Gopalapuram's and Kumaran's signatures. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

In this regard, petitioners have not provided sufficient proof that a copy of the supplemental declaration was sent or given to non-signing inventor Gopalapuram.

A brief Internet search reveals that Gopalapuram may now reside at an address in Folsom, CA 95630-3433.

Further, the transmission of documents via Email, while a common practice, can be problematic. Transmission and receipt of documents-whether in image, word-processing, spreadsheet or other form-can be effected by differences in software generation between the sender and recipient(s), and other interferences include but are not limited to sender's and recipient's Internet service provider's (ISP) and/or office/personal security firewall systems.

Petitioners should verify the last known address of the non-signing inventor, and, if a more recent address is discovered, provide a copy of the application as filed to the non-signing inventor at the inventor's most recent address. In any event, a copy of the subject application and declaration must be sent to the non-signing inventor. Petitioners may show proof that a copy of the declaration was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the supplemental declaration to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

If the declaration is returned as undeliverable, petitioners should provide a copy of an envelope showing that a letter sent to the last known address of the non-signing inventor was returned as undeliverable by the post office. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application

was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

If the inventor cannot be reached at his or her last known address, petitioners must provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the efforts, such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate that inventor, send or give a copy of the application papers to him or her, and request that he or she sign and return the declaration.

If repeated attempts to contact the inventor by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that the inventor cannot be found despite diligent efforts.

Petitioners should note that the fee for a request under 37 CFR 1.48(a) is $130.00, as prescribed by § 1.17(h), and the fee for a petition under 37 CFR 1.183 is $400.00, as prescribed by § 1.17(f). On September 2, 2010, $200.00 was paid. The balance of $330.00 will be charged to counsel's deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

A reply may also be filed using the EFS-Web system of the USPTO.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
COLUMBIA CENTER
701 FIFTH AVENUE, SUITE 6100
SEATTLE WA 98104-7043

MAILED
MAR 10 2011
OFFICE OF PETITIONS

In re Application of :
Gopalapuram et al. :
Application Number: 12/012,725 : ON PETITION
Filing Date: 02/01/2008 :
Attorney Docket Number: :
P191490.US.01

This is a decision in reference to the REQUEST FOR RECONSIDERTION OF PETITION UNDER 37 CFR 1.183 and 1.48 filed on January 18, 2011, which is treated as (a) a petition under 37 CFR 1.48(a)(1) requesting a person be added as a named inventor; and (b) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.64 which requires that the named inventors execute a supplemental declaration.

The petition is **GRANTED**.

On February 1, 2008, the above-identified application was filed. On May 13, 2009, a declaration naming Praveen Gopalapuram, Mani Kumaran, and Tamleigh Ross as joint inventors was filed.

On September 2, 2010, the initial petitions were filed. Petitioners requested that Kenneth C. Dyer be added as a named inventor. Petitioners further requested waiver under 37 CFR 1.183 of 1.48(a)(1) in as much as Gopalapuram could not be reached to sign the declaration and Kumaran refuses to execute the supplemental declaration naming them as joint inventors along with Kenneth C. Dyer and Tamleigh Ross.

On November 18, 2010, the petitions were dismissed because petitioners had not provided an adequate showing that joint inventor Gopalapuram could not be reached or had refused to sign the supplemental declaration.

On January 18, 2011, the subject renewed petitions were filed. Petitioners have provided a copy of a cover letter transmitting the application sent to joint inventor Gopalapuram at his last known address by Federal Express. Petitioners state that the letter was returned as "refused by recipient" and have included a

copy of the envelope, which has been marked to indicate the refusal.

Petition Under 37 CFR 1.48(a).

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

As such, the petition under 37 CFR 1.48 is granted with respect to the addition of Kenneth Dyer as a named inventor.

Petition Under 37 CFR 1.183 to waive 1.64.

In view of the efforts recounted in the petition to obtain the signatures of Praveen Gopalapuram and Mani Kumaran, it is agreed that justice would be served by waiving the requirement for their signatures on the supplemental declaration.

The inventorship will be as stated in the attached corrected filing receipt.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: 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
12/012,725	02/01/2008	2473	870	P191490.US.01	1	1

CONFIRMATION NO. 4050

CORRECTED FILING RECEIPT

27076
DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
Columbia Center
701 Fifth Avenue, Suite 6100
SEATTLE, WA 98104-7043

OC000000046427656

Date Mailed: 03/10/2011

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)

Kenneth C. Dyer, Davis, CA;
Praveen Gopalapuram, Roseville, CA;
Mani Kumaran, Milpitas, CA;
Tamleigh Ross, Sacramento, CA;

Power of Attorney: The patent practitioners associated with Customer Number 27076

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/900,180 02/07/2007

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 02/26/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/012,725**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

10GBase-T training algorithm

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LESAVICH HIGH-TECH LAW GROUP, P.C.
SUITE 325
39 S. LASALLE STREET
CHICAGO IL 60603

MAILED

JUN 08 2011

OFFICE OF PETITIONS

In re Application of	:	
LEVINE, et al	:	
Application No. 12/012,866	:	DECISION ON PETITION
Filed: February 6, 2008	:	TO WITHDRAW
Attorney Docket No. 04,119-C	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 3, 2011.

The request is **NOT APPROVED.**

The Request to withdraw from record cannot be approved because the change of correspondence address is not that of an assignee who has properly intervened. The Office will either change the correspondence address of record to the most current address information provided for an assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *"An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement incompliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee."*

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272- 6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: ROSENTHAL COLLINS GROUP, LLC
216 W. JACKSON, SUITE 400
CHICAGO, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SHUTTLEWORTH & INGERSOLL, P.L.C.
115 3RD STREET SE, SUITE 500
P.O. BOX 2107
CEDAR RAPIDS IA 52406

MAILED

SEP 02 2011

OFFICE OF PETITIONS

In re Application of	:	
HUNT	:	
Application No. 12/012,869	:	DECISION ON PETITION
Filed: February 6, 2008	:	TO WITHDRAW
Attorney Docket No. 20861-1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 23, 2011.

The request is **NOT APPROVED.**

The request cannot be approved because clarification is needed as to who future correspondence from the Office is to be sent. In this regard, the Request for Withdrawal as Attorney filed August 23, 2011, does not include the name of the first named inventor or an assignee who properly became of record.

The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
SEP 20 2011
OFFICE OF PETITIONS

SHUTTLEWORTH & INGERSOLL, P.L.C.
115 3RD STREET SE, SUITE 500
P.O. BOX 2107
CEDAR RAPIDS IA 52406

In re Application of	:	
HUNT	:	
Application No. 12/012,869	:	DECISION ON PETITION
Filed: February 6, 2008	:	TO WITHDRAW
Attorney Docket No. 20861-1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 9, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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 Allan Harms on behalf of all the attorneys of record.

All the attorneys of record 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 indicated 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: JAMES D. HUNT
58 BRANDY AVENUE
GALESBURG IL 61401

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
12/012,869	02/06/2008	James D. Hunt	20861-1

CONFIRMATION NO. 5081

POWER OF ATTORNEY NOTICE

23486
SHUTTLEWORTH & INGERSOLL, P.L.C.
115 3RD STREET SE, SUITE 500
P.O. BOX 2107
CEDAR RAPIDS, IA 52406

OC000000050021812

Date Mailed: 09/26/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/09/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/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

MAILED

FEB 07 2011

OFFICE OF PETITIONS

Mr. Emery L. Tracy
P.O. Box 1518
Boulder, Colorado 80306

In re Application of
Aurillo CUMMINGS
Application No. 12/012,918
Filed: 6 February 2008

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed 30 December 2010, to revive the above-identified application ("Application").

The petition is **GRANTED**.

The Application became abandoned for failure to submit the issue fee in a timely manner to the Notice of Allowance and Fee(s) Due mailed 2 April 2010 ("Notice"), which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the application became abandoned on 3 July 2010, with notification mailed 29 July 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a Statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of replacement drawings, and Issue Fee, (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.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-6051).

The application file will be referred to Office of Data Management.

David Bucci
Petitions Examiner
Office of Petitions

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:	12/012,929	Filing date:	February 6, 2008
First Named Inventor:	Danko A. Kobziar		
Title of the Invention:	Oxygen Mask With Rebreather Bag For Use With Pulse Oxygen Delivery 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/US2008/001562

The international date of the corresponding PCT application(s) is/are: February 6, 2008

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)**

- [x] 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).**

- [x] 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.

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.:	12/012,929
First Named Inventor:	Danko A. Kobziar

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 March 19, 2009

(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 March 19, 2009

II. Claims Correspondence Table:

Claims in US Application	Patentable Claims in the corresponding PCT Application	Explanation regarding the correspondence
1-19	1-19	

III. All the claims in the US application sufficiently correspond to the patentable claims in the corresponding PCT application.

Signature /Jordan L. Walbesser, Reg.# 67,761/	Date March 29, 2011
Name (Print/Typed) Jordan L. Walbesser	Registration Number 67,761

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/012,929	02/06/2008	Danko A. Kobziar	042944.00190	4711

26712 7590 03/30/2011
HODGSON RUSS LLP
THE GUARANTY BUILDING
140 PEARL STREET
SUITE 100
BUFFALO, NY 14202-4040

EXAMINER
DOUGLAS, STEVEN O

ART UNIT	PAPER NUMBER
3771	

MAIL DATE	DELIVERY MODE
03/30/2011	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

HODGSON RUSS LLP
THE GUARANTY BUILDING
140 PEARL STREET
SUITE 100
BUFFALO NY 14202-4040

In re Application of	:	
KOBZIAR, DANKO A. et al	:	DECISION ON REQUEST TO
Application No. 12/012,929	:	PARTICIPATE IN PATENT
Filed: Feb. 6, 2008	:	PCT/PROSECUTION HIGHWAY
Attorney Docket No. 042944.00190	:	PROGRAM AND PETITION
For: OXYGEN MASK WITH REBREATHER BAG	:	TO MAKE SPECIAL
FOR USE WITH PULSE OXYGEN	:	37 CFR 1.102(a)
DELIVERY SYSTEM		

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(a), filed March 29, 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 disclose an eligible relationship to one or more PCT applications filed in the JPO, EPO, KIPO or USPTO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the PCT application(s) latest international work product (the written opinion or the IPER) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the PCT application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of the latest international work product from the PCT application containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate; and
(6) Applicant must submit an IDS listing the documents cited by the PCT examiner in the international work product along with copies of documents except U.S. patents or U.S. patent application publications.

In light of the petition being properly submitted, the request to participate in the PPH program and the petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

The applicant is encouraged to cite and submit all relevant prior art references, if any, to facilitate examination in this application.

Other inquiries concerning the examination or status of the application should be directed to Justine Yu, the SPE of Art Unit 3771 at 571-272-4835 for Class 128/205 and also accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

This application will be forwarded and docketed to an examiner for action on the merits commensurate with this decision.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen, at 571-272-4856.

The petition is **granted.**

/Henry C. Yuen/

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

MAILED
MAY 19 2011
OFFICE OF PETITIONS

In re Application of
Pramod Khandekar
Application No. 12/012,951
Filed: February 6, 2008
Attorney Docket No. INSTAK 3.0-001 DIV CONT

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 April 25, 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 $575, under 37 CFR 1.28, is hereby accepted and the petition is **GRANTED**. Status as a small entity has also been removed.

The matter is being referred to Technology Center 2129.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Richard A. Burtch	:	
Application No. 12/013,068	:	DECISION ON PETITION
Filed: January 11, 2008	:	TO WITHDRAW
Attorney Docket No. P09342US00/RFH	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 2, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Jeffrey A. Haeberlin on behalf of all attorneys/agents associated with customer number 00881. All attorneys/agents associated with customer number 00881 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: Richard A. Burtch
85 Moorcrest Drive
Aurora, Ontario
CANADA L4G 6C6

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
12/013,068	01/11/2008	Richard A. BURTCH	P09342US00/RFH

CONFIRMATION NO. 7864

POWER OF ATTORNEY NOTICE

881
STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

OC000000044606826

Date Mailed: 11/22/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/02/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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December 17, 2011

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Application of	:	
Michael B. Chancellor et al.	:	**DECISION ON PETITION**
Application No. 12013076	:	
Filed: 01/11/2008	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **28682-506001US**	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) January 11, 2008.

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

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 112025-0708	
Application Number: 12/013,096	Filing Date (or 371(b) or (f) Date): January 11, 2008
Patent Number: 7,668,971	Issue Date: February 23, 2010
First Named Inventor: Jean-Philippe Vasseur	
Title: Dynamic Path Computation Element Load Balancing With Backup Path Computation Eleme	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Thomas J. Frame/	Date August 4, 2010
Name (Print/Typed) Thomas J. Frame	Registration Number 47,232

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for: REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 08/31/2010

Applicant	: Jean-Philippe Vasseur	: DECISION ON REQUEST FOR
Patent Number	: 7668971	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 12/013,096	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/11/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **209** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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	12013147
Filing Date	11-Jan-2008
First Named Inventor	Michael Hoffman
Art Unit	2455
Examiner Name	PHILIP TRAN
Attorney Docket Number	1116-084
Title	SYSTEM AND METHOD FOR IDENTIFYING TRANSIENT FRIENDS

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	/R. Chad Bevins/
Name	R. Chad Bevins
Registration Number	51468

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : April 4,2011

In re Application of :

Michael Hoffman

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 12013147

Filed : 11-Jan-2008

Attorney Docket No : 1116-084

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed April 4,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid 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 2455 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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POLSTER, LIEDER, WOODRUFF & LUCCHESI, L.C.
12412 POWERSCOURT DR. SUITE 200
ST. LOUIS MO 63131-3615

MAILED

FEB 15 2011

OFFICE OF PETITIONS

In re Application of	:	
Steven Bailey	:	
Application No. 12/013,168	:	DECISION ON PETITION
Filed: January 11, 2008	:	
Attorney Docket No. BAIS 9782U1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 12, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 21, 2010, as required by the Notice of Allowance and Fee(s) Due mailed September 21, 2010. Accordingly, the date of abandonment of this application is December 22, 2010. A Notice of Abandonment was mailed January 6, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00 and the publication fee of $300.00, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

Joan Olszewski
Petitions Examiner
Office of Petitions

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	12013186
Filing Date	11-Jan-2008
First Named Inventor	Kenneth Jennings
Art Unit	2455
Examiner Name	PHILIP TRAN
Attorney Docket Number	1116-085
Title	CONTIGUOUS LOCATION-BASED USER NETWORKS

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	/R. Chad Bevins/
Name	R. Chad Bevins
Registration Number	51468

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : April 4,2011

In re Application of :

Kenneth Jennings

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 12013186

Filed : 11-Jan-2008

Attorney Docket No : 1116-085

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed April 4,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid 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 2455 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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UNGARETTI & HARRIS LLP
INTELLECTUAL PROPERTY GROUP - PATENTS
70 WEST MADISON STREET
SUITE 3500
CHICAGO IL 60602-4224

MAILED
JUL 15 2011
OFFICE OF PETITIONS

In re Application of	:	
George W. Mortimer et al.	:	
Application No. 12/013,247	:	DECISION ON PETITION
Filed: January 11, 2008	:	
Attorney Docket No. **1003349-7009**	:	

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**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 01, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed September 01, 2010. Accordingly, the date of abandonment of this application is December 02, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 Fee 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 Tredelle Jackson at (571) 272-2783.

This application is being referred to the Office of Data Management for processing into a patent.

(for)

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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FINNEGAN HENDERSON FARABOW GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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MAY 3 1 2011
OFFICE OF PETITIONS

In re Application of	:	
Aoki	:	
Application No. 12/013,254	:	DECISION ON PETITION
Filed: January 11, 2008	:	
Attorney Docket No. 10587.0308-00000	:	

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed May 18, 2011.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action mailed September 29, 2010. This Office action set a shortened statutory period for reply of three (3) months. The Office mailed a Notice of Abandonment on April 27, 2011, stating that no reply had been received.

A review of the application file reveals the presence of an Amendment, filed on January 31, 2011, made timely by obtaining a one month extension of time and by the fact that January 29, 2011 fell on a Saturday. See 37 CFR 1.7(a). A review of Office finance records confirms that the Office received the fee for the one month extension of time on that same day. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

The application is being forwarded to Group Art Unit 3664 for consideration of the Amendment filed January 31, 2011 (made timely with the one month extension of time and in lieu of 37 CFR 1.7(a)).

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH FL 33402-3188

MAILED
APR 07 2011
OFFICE OF PETITIONS

In re Application of	:	
BLYDEN, Jason	:	
Application No. 12/013,259	:	DECISION ON PETITION
Filed: January 11, 2008	:	TO WITHDRAW
Attorney Docket No. **9944-0-1CIP (212211)**	:	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 09, 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 Peter A. Chiabotti on behalf of all attorneys of record who are associated with customer No. 30448. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed February 10, 2011 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Petitions Examiner
Office of Petitions

cc: **LOVELY STRANDS LLC**
6742 FOREST HILL BLVD.
SUITE 276
WEST PALM BEACH, FLORIDA 33413

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Bib Data Sheet

CONFIRMATION NO. 8267

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
12/013,259	01/11/2008 RULE	219	3742	

APPLICANTS

Jason Blyden, Greenacres, FL;

**** CONTINUING DATA ****************************

This application is a CIP of 10/905,180 12/20/2004 PAT 7,458,382

**** FOREIGN APPLICATIONS **********************

IF REQUIRED, FOREIGN FILING LICENSE GRANTED ** ** SMALL ENTITY **
02/01/2008

Foreign Priority claimed 35 USC 119 (a-d) conditions met Verified and Acknowledged	☐ yes ☐ no ☐ yes ☐ no ☐ Met after Allowance Examiner's Signature Initials	STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
		FL	11	20	2

ADDRESS

LOVELY STRANDS LLC
6742 FOREST HILL BLVD.
SUITE 276
WEST PALM BEACH, FL33413

TITLE

HAIR IRON

FILING FEE RECEIVED		
435	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

PTO/SB/96 (07-09)
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STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Lovely Strands LLC

Application No./Patent No.: 12/013,259 Filed/Issue Date: January 11, 2008

Titled: Hair Iron

Lovely Strands LLC, a Corporation
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest in;

2. ☐ an assignee of less than the entire right, title, and interest in (The extent (by percentage) of its ownership interest is _____ %); or

3. ☒ the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made)

the patent application/patent identified above, by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy therefore is attached.

OR

B. ☒ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: Blyden, Jason To: Lovely Strands LLC

The document was recorded in the United States Patent and Trademark Office at
Reel 021775, Frame 0212, or for which a copy thereof is attached.

2. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet(s).

☒ As required by 37 CFR 3.73(b)(1)(i), 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 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

/Peter A. Chiabotti/	04/06/2011
Signature	Date
Peter A. Chiabotti	Attorney of Record
Printed or Typed Name	Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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Akerman

Chiabotti, Peter
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Dir: 561-671-3608
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peter.chiabotti@akerman.com

Fax

Date:	4/6/2011		
To:	Michelle Eason	Telephone:	
Company:	USPTO Office of Petitions	Fax:	5712734231
Subject:			
# of Pages:	3		

Please call 561-671-3608 if you do not receive all the pages.

U.S. Patent and Trademark Office
Patent Application No. 12/013,259
Filed: 01/11/2008
Inventor: BLYDEN, Jason
Examiner: PELHAM, Joseph Moore
Art Unit: 3742
Title: HAIR IRON
Attorney Docket: 9944-0CIP

Attention: Michelle Eason, Office of Petitions

Attached is a Statement Under 37 CFR 3.73(b) further to a brief teleconference today and in support of the REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS filed March 9, 2011.

Peter A. Chiabotti
Akerman Senterfitt | 222 Lakeview Avenue | Suite 400 | West Palm Beach, FL 33401
Dir: 561.671.3608 | Main: 561.653.5000 | Fax: 561.651.1507
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MAILED

SEP 26 2011

OFFICE OF PETITIONS

ON PETITION

In Re application of :
Charles D. Claude et al. :
Application No. 12/013,286 :
Filed: January 11, 2008 :
Attorney Docket No. 5618P2817D :

This is a decision on the Petition to Expunge Submission, filed February 23, 2011.

The petition is **granted**.

Applicant requests that the Amendment and Response to Office Action filed February 22, 2011 be removed from the record. Applicant indicates that the information submitted was erroneously filed in the instant application and was meant for another application.

A review of the file shows the information was clearly intended to be filed in an unrelated application.

The material has been removed from the official file.

Telephone inquiries relative to this decision should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

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Husch Blackwell LLP
Husch Blackwell Sanders LLP Welsh & Katz
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Application of

Montano, et al.

Application No. 12/013,403

Filed: January 11, 2008

Attorney Docket No. **5282-112607**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 17, 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 August 25, 2010. The final Office action set a shortened statutory period for reply of three months from its mailing date. A proper response was received, and the application became abandoned on November 26, 2010. A Notice of Abandonment was mailed March 4, 2011.

The Request for Continued Examination filed March 17, 2011, is noted.

The application file is being forwarded to Technology Center 1600, GAU 1627 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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Husch Blackwell Sanders LLP Welsh & Katz
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CHICAGO IL 60606

MAILED

MAY 03 2011

OFFICE OF PETITIONS

In re Application of :
Jose Ruben Tornero Montano et al. :
Application No. 12/013,405 : DECISION ON PETITION
Filed: January 11, 2008 :
Attorney Docket No. **5282-112614** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 17, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 24, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is November 25, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being

treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.

This application is being referred to Technology Center AU 1627 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

JoAnne Burke
Petitions Examiner
Office of Petitions

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LAW OFFICES OF MARK E. WIEMELT, P.C.
SUITE 3300
10 S. LASALLE STREET
CHICAGO, IL 60603

In re Application of	:	
ARAUJO, et al	:	
Application No. 12/013,430	:	ON PETITION
Filed: January 12, 2008	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 22, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 2, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 3, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 1743 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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EDWARD LANGER
C/O SHIBOLETH YISRAELI ROBERTS ZISMAN & CO.
1 PENN PLAZA-SUITE 2527
NEW YORK, NY 10119

MAILED
JUN 22 2011
PCT LEGAL ADMINISTRATION

In re Application of	:	
BEN-NUN	:	
Application No.: 12/013,488	:	DECISION ON PETITION
Filing Date: January 14, 2008	:	
Attorney Docket No.: 2223	:	

This is a decision on the petition filed February 13, 2011, to accept a delayed benefit claim under 35 U.S.C. 120 without payment of a petition fee.

The petition is **DISMISSED**.

The petition states that the Office erred by not including international application information on the filing receipt mailed May 15, 2009. However, when claiming the benefit of a national stage application, applicant is not required to include the international application number in the specific reference to the earlier application. See Broadcast Innovation v. Charter Communications, CAFC, 05-1008, (2005). Therefore, inclusion of international application information on a filing receipt is irrelevant.

In the present case, an amendment to add a proper reference to U.S. Application number 11/911,111 was filed on November 19, 2008, which is after the expiration of the time period set forth in 37 CFR 1.78(a)(2)(ii). Accordingly, a grantable petition under 37 CFR 1.78(a)(3) along with the requisite $1,410.00 petition fee would be required for entry of the benefit claim at issue.

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
Legal Examiner
Office of PCT Legal Administration
571-272-3303

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United States Patent and Trademark Office
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C/O SHIBOLETH YISRAELI ROBERTS ZISMAN & CO.
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NEW YORK, NY 10119

MAILED
DEC 09 2011
PCT LEGAL ADMINISTRATION

In re Application of	:	
BEN-NUN	:	
Application No.: 12/013,488	:	DECISION ON PETITION
Filing Date: January 14, 2008	:	
Attorney Docket No.: 2223	:	

This is a decision on the petition filed December 6, 2011, to accept a delayed benefit claim under 35 U.S.C. 120. The petition is being treated under 37 CFR 1.78(a)(6).

The petition is **DISMISSED**.

A petition for acceptance of a late claim for 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 37 CFR 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.

With regard to item (1), the proper reference has not been provided. In particular, applicant submitted a purported amendment to the specification on November 18, 2008. However, not all of the added text is underlined as required by 37 CFR 1.121(b)(1)(ii), and each section of the amendment does not begin on a separate sheet as required by 37 CFR 1.121(h).

With regard to item (2), the requisite surcharge has been furnished.

With regard to item (3), the petition fails to state 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.

Before the petition under 37 CFR 1.78(a)(3) can be granted, correction of the above matters is required.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration
571-272-3303

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NEW YORK, NY 10119

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PCT LEGAL ADMINISTRATION

In re Application of	:	
BEN-NUN	:	
Application No.: 12/013,488	:	DECISION ON PETITION
Filing Date: January 14, 2008	:	
Attorney Docket No.: 2223	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed December 27, 2011, to accept a delayed benefit claim under 35 U.S.C. 120.

Under 37 CFR 1.78(a)(3), a petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

(i) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2) to the prior-filed application, unless previously submitted;

(ii) the surcharge set forth in 37 CFR 1.17(t); and

(iii) 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.

With regard to item (i), 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).

With regard to item (ii), the surcharge set forth in 37 CFR 1.17(t) has been submitted.

With regard to item (iii), the statement of unintentional delay contained in the petition differs slightly from the language contained in 37 CFR 1.78(a)(3)(iii) and is hereby construed as a statement that the entire delay between the date the claim was due under 37 CFR 1.78 (a)(2)(ii) and the date the claim was filed was unintentional. If this interpretation is incorrect, applicant is required to immediately notify the Office. As construed, the statement of unintentional delay is acceptable.

For the reasons above, the petition under 37 CFR 1.78(a)(3) is **GRANTED**.

Applicant is advised that the granting of a petition under 37 CFR 1.78(a)(3) or the inclusion of a prior-filed application on any Filing Receipt should not be construed as meaning that the application is necessarily entitled to the benefit of the prior-filed application. In order for an 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 must be met. The examiner will, in due course, determine whether this application is entitled to the benefit of an earlier filing date.

This matter is being referred to Technology Center Art Unit 3739 for appropriate action, including consideration by the examiner of applicant's entitlement to the benefit of priority under 35 U.S.C. 120 and 365(c) to the prior-filed nonprovisional application.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration
571-272-3303

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	12013496
Filing Date	14-Jan-2008
First Named Inventor	Alfred Butler
Art Unit	3625
Examiner Name	MILA AIRAPETIAN
Attorney Docket Number	CYPH006-US
Title	REAL TIME RE-PURPOSING OF A MOBILE APPLICATION USING XML DATA

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 24222

The reason(s) for this request are those described in 37 CFR:

10.40(c)(1)(iv)

10.40(b)(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	Alfred L. Butler, Jr.
Address	23 Gloria Street
City	Uxbridge
State	MA
Postal Code	01569

Country	US
I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/David A. Rardin, Reg. No. 52,153/
Name	David A. Rardin
Registration Number	52153

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : May 2,2011

In re Application of :

Alfred Butler

Application No : 12013496

Filed : 14-Jan-2008

Attorney Docket No : CYPH006-US

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed May 2,2011

The request is **APPROVED.**

The request was signed by David A. Rardin (registration no. 52153) on behalf of all attorneys/agents associated with Customer Number 24222 . All attorneys/agents associated with Cusotmer Number 24222 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	Alfred L. Butler, Jr.
Name2	
Address 1	23 Gloria Street
Address 2	
City	Uxbridge
State	MA
Postal Code	01569
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.

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Collard & Roe, P.C./Leviton
1077 Northern Blvd
Roslyn NY 11576

MAILED

OCT 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Steve Campolo, et al.	:	
Application No. 12/013,577	:	DECISION GRANTING PETITION
Filed: January 14, 2008	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CAMPOLO EA-1 CON	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, October 29, 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 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 should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2836 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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CANTOR COLBURN LLP-IBM POUGHKEEPSIE
20 Church Street
22nd Floor
Hartford CT 06103

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FEB 07 2012
OFFICE OF PETITIONS

In re Application of
Betz, et al.
Application No. 12/013,659
Filed: January 14, 2008
Attorney Docket No. POU920070004US1

DECISION ON PETITION

This is a decision on the petition to revive pursuant to 37 CFR 1.137(b) filed January 19, 2012.

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 December 7, 2011 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed September 6, 2011. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed December 22, 2011.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(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 fails to comply with requirement (1) set forth above. The Office acknowledges the request for continued examination (including submission and fee) submitted herewith. The request for continued examination will be processed upon the submission of a grantable petition under 37 CFR 1.137(b).

However, the instant application is abandoned for failure to timely submit the issue fee and publication fee. Petitioner is advised that the only proper reply in this instance is payment of the issue fee and publication fee. See, MPEP 711.03(c) and 37 CFR 1.137(c).

Any request for reconsideration must include the required issue fee and publication fee.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CANTOR COLBURN LLP-IBM POUGHKEEPSIE
20 Church Street
22nd Floor
Hartford CT 06103

MAILED
MAR 27 2012
OFFICE OF PETITIONS

In re Application of :
Betz, et al. :
Application No. 12/013,659 : DECISION ON PETITION
Filed: January 14, 2008 :
Attorney Docket No. POU920070004US1 :

This is a decision on the renewed petition to revive pursuant to 37 CFR 1.137(b) filed March 21, 2012.

The application became abandoned December 7, 2011 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed September 6, 2011. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed December 22, 2011.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The instant petition has been carefully reviewed and found in compliance with the provisions set forth above.

In view thereof, the petition is hereby **GRANTED**.

This application is being directed to Group Art Unit 2182 for consideration of the request for continued examination filed January 12, 2012.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

JAN 07 2011

OFFICE OF PETITIONS

MAYNARD COOPER & GALE, PC
1901 SIXTH AVENUE NORTH
2400 REGIONS/HARBERT PLAZA
BIRMINGHAM AL 35203-2618

In re Application of	:	
Bodor et al.	:	
Application No. 12/013,690	:	ON PETITION
Filed: January 14, 2008	:	
Attorney Docket No. 050692-00022	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the $1510.00 issue fee, (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 the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

MAILED
DEC 20 2010
OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki, et al.	:	
Application No. 12/013,796	:	DECISION GRANTING PETITION
Filed: January 14, 2008	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 740756-3156	:	

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed December 20, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 14, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2826 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

[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

SHENG TAI TSAO
2979 HEIDI DRIVE
SAN JOSE CA 95132

MAILED

DEC 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Sheng (Ted) TSAO	:	
Application No. 12/013,813	:	DECISION ON PETITION
Filed: January 14, 2008	:	TO WITHDRAW
Attorney Docket No. 1049-P0003DV	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 19, 2010.

The request is **NOT APPROVED because it is moot.**

A review of the file record indicates that the power of attorney to James M. Wu and all the attorneys of record associated with Customer No. 79662, has been revoked by the applicant of the patent application on December 6, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future correspondence with continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquires concerning this decision should be directed to undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

Cc: JAMES M. WU
84 W. SANTA CLARA STREET,
SUITE 820
SAN JOSE, CA 95113

UNITED STATES 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 T. GRIGGS
17950 Preston Road
Suite 1000
DALLAS TX 75252

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael A. Bills	:	
Application No. 12/013,854	:	DECISION ON PETITION
Filed: January 14, 2008	:	
Attorney Docket No. 1015.1003	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, June 12, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 13, 2009. A Notice of Abandonment was mailed on April 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 RCE (Request for Continued Examination, with the required fee of $405, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3677 for appropriate action by the Examiner in the normal course of business on the RCE received July 8, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

4/4/2011

Patent No. :7693001
Inventor(s) :Golke et al.
Issued :4/6/2010
Title :SRAM SPLIT WRITE CONTROL FOR A DELAY ELEMENT
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals Claim 1, line 21 col.6 is printed in accordance with the record please show evidence of supporting data or amendment. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

Shumaker & Sieffert
1625 Radio Drive, Suite 300
Attn: JESSICA H.K. RAUCKMAN
Woodbury, MN 55125

HR

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/24/2011

TO SPE OF : ART UNIT 2827 Zarabian Amir (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 12/013856 Patent No.: 7693001

CofC mailroom date: 6/14/2011

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: _____

_____

_____

_____

_____

SPE 2827 **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/24/2011

TO SPE OF : ART UNIT 2827 Zarabian Amir (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 12/013856 Patent No.: 7693001

CofC mailroom date: 6/14/2011

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.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE 2827 **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

SLATER & MATSIL, L.L.P.
17950 PRESTON ROAD, SUITE 1000
DALLAS, TX 75252

MAILED

DEC 10 2010

OFFICE OF PETITIONS

In re Application of
Jiing-Shin SHYU, et *al.*
Application No. 12/013,999
Filed: January 14, 2008
Attorney Docket No. **TSM07-0482**

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 9, 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 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 2825 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DENNIS DUPRAY
1801 BELVEDERE DR.
GOLDEN CO 80401

MAILED
APR 08 2011
OFFICE OF PETITIONS

In re Application of	:	
KARR, et al	:	
Application No. 12/014,092	:	DECISION ON PETITION
Filed: January 14, 2008	:	
Attorney Docket No. 1003-6	:	

This is a decision on the petition under 37 CFR 1.182, filed January 13, 2011, to change the order of the names of the inventors.

The petition is **DISMISSED**.

In the petition filed January 13, 2011, petitioner has requested the order of inventors be changed so that Dennis J. Dupray is the first named inventor. The request cannot be granted because the proper fee did not accompany the petition. Petitioner submitted $130, however, the petition fee under 37 CFR 1.182 is $400.

This application is being referred to Technology Center AU 2617 for further processing.

Telephone inquiries regarding this decision should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DENNIS DUPRAY
1801 BELVEDERE DR.
GOLDEN, CO 80401

MAILED
MAY 12 2011
OFFICE OF PETITIONS

In re Application of :
Charles L. Karr et al :
Application No. 12/014,092 : ON PETITION
Filed: January 14, 2008 :
Attorney Docket No. 1003-6

This is a decision on the petition, filed May 11, 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 January 13, 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 2617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

MAILED
NOV 03 2010
OFFICE OF PETITIONS

In re Application of
Chiemi Hashimoto et al
Application No. 12/014,132
Filed: January 15, 2008
Attorney Docket No. XA-10984

ON PETITION

This is a decision on the petition, filed November 2, 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 4, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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JUL 08 2011
OFFICE OF PETITIONS

FISH & RICHARDSON P.C. (AT)
P.O BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of	:	
Yee Chyan Tan and Yit Koon Lim	:	DECISION REFUSING STATUS
Application No. 12/014,219	:	UNDER 37 CFR 1.47(a)
Filed: January 15, 2008	:	
Attorney Docket No.: 23472-0004001 / SD/PAT/30	:	

This is a decision in response to the petition, filed August 1, 2008, under the provisions of 37 CFR 1.47(a). The delay in responding is regretted; however, the petition was recently referred to the Office of Petitions for consideration.

The petition is DISMISSED.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on January 15, 2008, without an executed oath or declaration. Accordingly, on February 5, 2008, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring, *inter alia*, an executed oath or declaration, including a surcharge for its late filing. A two (2) month period for reply was set. In response, on October 6, 2010, applicant filed an appropriate petition for extension of time, basic filing fee, additional claim fees, search fee, examination fee, replacement drawings, a partially executed declaration, surcharge and the present petition under 37 CFR 1.47(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The petition lacks item (1).

Rule 47 applicant must demonstrate with documented evidence that an inventor refuses to join in the application after having been presented with the application papers (specification, claims, drawings and oath or declaration). There is no indication herein that joint inventor Tan was presented with a copy of the complete application papers for this application. It is noted that petitioner submits, by a declaration of Chan Hon Leong, the QA Section Manager at OYL Research and Development Center Sdn. Bhd., that the non-signing inventor refused to sign the declaration after being contacted by telephone on May 14, 2008, May 21, 2008 and May 27, 2008.

Before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor at the non-signing inventor's last know address.. If the joint inventor was not presented with a complete copy of the application papers (specification, claims and drawings) for this application, then he could not attest that he has "reviewed and understands the application papers" and could not execute the declaration he was requested to sign.

Unless petitioner can show that a copy of the application papers was presented to the non-signing inventor, then petitioner will have to mail a copy of the complete application papers (specification, claims and drawings) to the last known address of joint inventor Lambert, return receipt requested. A cover letter of instructions should accompany the mailing of the application papers setting a deadline or a statement that no response will constitute a refusal. **The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as certified mail return receipt, cover letter of instructions, telegram, etc.** *See* MPEP 409.03(d).

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration **by the party to whom the refusal was made.** Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
DEC 09 2011
OFFICE OF PETITIONS

FISH & RICHARDSON P.C. (AT)
P.O BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of :
Yee Chyan Tan, et al. :
Application No. 12/014,219 : DECISION ACCORDING STATUS
Filed: January 15, 2008 : UNDER 37 CFR 1.47(a)
Attorney Docket No.: 23472-0004001 / SD/PAT/30:

This is a decision in response to the petition under 37 CFR 1.47(a) filed November 11, 2011.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor, Yee Chyan Tan, has refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 2838 for appropriate action, including notifying applicant of the new status of this application.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
DEC 09 2011
OFFICE OF PETITIONS

MR. YEE CHYAN TAN
60, JALAN 57, KEPONG BARU
52100 KUALA LUMPAR, MALAYSIA

In re Application of.
Yee Chyan Tan and Yit Koon Lim
Application No. 12/014,219
Filed: January 15, 2008
For: POWER FACTOR CORRECTION CIRCUIT

LETTER

Dear Mr. Tan:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3204. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: FISH & RICHARDSON P.C. (AT)
P.O BOX 1022
MINNEAPOLIS, MN 55440-1022

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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JUL 14 2011
OFFICE OF PETITIONS

SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM NY 12110

In re Application of	:	
Chaitra M. Bhat et al.	:	
Application No. 12/014,344	:	ON PETITION
Filed: January 15, 2008	:	
Attorney Docket No. IN920040010US2	:	

This is a decision on the petition under 37 CFR 1.182, filed June 28, 2011, to change the name of the inventor.

The petition is **GRANTED**.

The name of the inventor has been changed from **M. Chandrika** to **Chandrika Madhwacharya**.

A petition under 37 CFR 1.182 requires a fee of $400. A fee of $130 was paid with the filing this petition. The balance of $270 will be charged to petitioner's deposit account.

The application file is being referred to the Office of Data Management for further processing.

Telephone inquiries regarding this decision may be directed to Kimberly Inabinet (571) 272-4618.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
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MAR 11 2011

OFFICE OF PETITIONS

Collard & Roe, P.C./Leviton
1077 Northern Blvd
Roslyn NY 11576

In re Application of :
Angelides, et al. :
Application No. 12/014,347 : DECISION ON PETITION
Filed: January 15, 2008 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ANGELIDES ET AL 1 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 9, 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 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 Attorney Advisor Alesia M. Brown 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 2836 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.

Chris Bottorff
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
12/014,347	01/15/2008	2836	1230	ANGELIDES ET AL 1	24	3

CONFIRMATION NO. 1417

CORRECTED FILING RECEIPT

73990
Collard & Roe, P.C./Leviton
1077 Northern Blvd
Roslyn, NY 11576

OC000000046491200

Date Mailed: 03/11/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Mario ANGELIDES, Rockville Centre, NY;
Michael KAMOR, North Massapequa, NY;

Assignment For Published Patent Application

LEVITON MANUFACTURING COMPANY, INC., Little Neck, NY

Power of Attorney:

Kurt Kelman--18628
Allison Collard--22532
Edward Freedman--26048
Frederick Dorchak--29298
Elizabeth Richter--35103
William Collard--38411
Edward Callaghan--46594

Domestic Priority data as claimed by applicant

This application is a CIP of 12/013,603 01/14/2008 ABN

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: 02/01/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/014,347**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

FAULT CIRCUIT INTERRUPTER DISPOSED INSIDE A HOUSING ADAPTED TO RECEIVE MODULAR COMPONENTS

Preliminary Class

361

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

MAILED

DEC 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Keim et al.	:	
Application No. 12/014,412	:	ON PETITION
Filed: January 15, 2008	:	
Attorney Docket No. 053604-0148	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 23, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 5, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 6, 2010. A Notice of Abandonment was mailed September 30, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (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) 272-6059.

This application is being referred to Technology Center 1791 for further examination on the merits.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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FOLEY HOAG, LLP
PATENT GROUP WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

MAILED
OCT 04 2010
OFFICE OF PETITIONS

In re Application of	:	
Eric Bonabeau et al	:	
Application No. 12/014,490	:	DECISION GRANTING PETITION
Filed: January 15, 2008	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ICO-003.02	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 1, 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 should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2129 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

FEB 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Racz et al.	:	
Application No. 12/014,558	:	ON PETITION
Filed: January 15, 2008	:	
Attorney Docket No. 080379-000110US	:	

This is a decision on the petition under 37 CFR 1.182, filed November 8, 2010, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. PATRICK RACZ
2. HERMEN-ARD HULST

A Corrected Filing Receipt reflecting the above changes is enclosed.

This matter is now being referred to Technology Center AU 2887 to await examination.

Telephone inquiries regarding this decision should be directed to Joan Olszewski at (571) 272-7751. All other inquiries should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
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
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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
12/014,558	01/15/2008	2887	3140	080379-000110US	71	16

CONFIRMATION NO. 1812

CORRECTED FILING RECEIPT

OC000000046108801

20350
KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 02/22/2011

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)

Patrick RACZ, St. Heller, NJ;
Hermen-ard Hulst, Amsterdam, NETHERLANDS;

Power of Attorney: The patent practitioners associated with Customer Number 20350

Domestic Priority data as claimed by applicant

This application is a CON of 11/336,758 01/19/2006 PAT 7,334,720
which is a CON of 10/111,716 09/17/2002 ABN
which is a 371 of PCT/GB00/04110 10/25/2000

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.)
UNITED KINGDOM 9925227.2 11/25/1999

If Required, Foreign Filing License Granted: 02/04/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/014,558**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

DATA STORAGE AND ACCESS SYSTEMS

Preliminary Class

235

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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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CHOWDHURY & GEORGAKIS, P.C
P.O. BOX 17299
SUGAR LAND TX 77496

MAILED
OCT 26 2011
OFFICE OF PETITIONS

In re Application:
Christopher James Chadwell
Application No. 12/014,589
Filed: January 15, 2008
Attorney Docket No. SWRP-171US

ON PETITION

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 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.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Joseph C. Arrambide
Southwest Research Institute
PO Drawer 28510
San Antonio, TX 78228-0510

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/30/11

TO SPE OF : ART UNIT 3673

SUBJECT : Request for Certificate of Correction for Appl. No.: 12014645 Patent No.: 7886384

CofC mailroom date: 06/23/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted]

Note: **Should Claims 4 and 6 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.

xApproved	**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

/Peter M. Cuomo/

SPE

Art Unit

3673

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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LAW OFFICE OF KEN DALLARA
KEN DALLARA
4052 Eagle Flight Drive
SUITE 100
SIMI VALLEY CA 93065

MAILED
JUN 30 2011
OFFICE OF PETITIONS

In re Application of

Alvarez, et al.

Application No. 12/014,651

Filed: January 15, 2008

Attorney Docket No. **TCS-Turbinemethod**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 28, 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 *Ex Parte Quayle* action mailed August 12, 2010, which set a shortened period for reply of two (2) months from its mailing date. No extensions of time were obtained within the allowable period. Accordingly, the application became abandoned on October 13, 2010. A Notice of Abandonment was mailed on March 24, 2011.

The response filed October 29, 2010, is noted.

The terminal disclaimer filed April 28, 2007, is also noted. A terminal disclaimer is not required in this instance because the subject application is a utility or plant application filed before June 8, 1995, not is the subject application a design application. The terminal disclaimer filed April 28, 2011, will not be entered. The fee of $70.00 will be refunded, in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICE OF KEN DALLARA
KEN DALLARA
4052 Eagle Flight Drive
SUITE 100
SIMI VALLEY CA 93065

MAILED
JUN 30 2011
OFFICE OF PETITIONS

In re Application of

Alvarez, et al.

Application No. 12/014,651

Filed: January 15, 2008

Attorney Docket No. **TCS-Turbinemethod**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 28, 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 *Ex Parte Quayle* action mailed August 12, 2010, which set a shortened period for reply of two (2) months from its mailing date. No extensions of time were obtained within the allowable period. Accordingly, the application became abandoned on October 13, 2010. A Notice of Abandonment was mailed on March 24, 2011.

The response filed October 29, 2010, is noted.

The terminal disclaimer filed April 28, 2007, is also noted. A terminal disclaimer is not required in this instance because the subject application is a utility or plant application filed before June 8, 1995, not is the subject application a design application. The terminal disclaimer filed April 28, 2011, will not be entered. The fee of $70.00 will be refunded, in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
12/014,663	01/15/2008	Huai-Rong Shao	SAM2B.PAU.107	1993

97001 7590 08/25/2010
Samsung R&D Center
c/o Myers Andras Sherman LLP
19900 MacArthur Blvd., Suite 1150
Irvine, CA 92612

EXAMINER
YAO, KWANG BIN

ART UNIT	PAPER NUMBER
2473	

MAIL DATE	DELIVERY MODE
08/25/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Samsung R&D Center
c/o Myers Andras Sherman LLP
19900 MacArthur Blvd., Suite 1150
Irvine CA 92612

In re Application of: SHAO, HUAI-RONG et al.
Application No. 12014663
Filed: January 15, 2008
For: METHOD AND SYSTEM FOR WIRELESS COMMUNICATION USING OUT-OF-BAND CHANNELS

DECISION ON PETITION TO EXPUNGE INFORMATION UNDER 37 CFR 1.59

MAILED

AUG 24 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

This is a decision on the petition under 37 CFR § 1.59(b), filed on June 21, 2010, to expunge information submitted pursuant to MPEP § 724.02.

The petition is **DISMISSED**.

Petitioner requests that the information submitted on June 22, 2010 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The petition is premature because the application has not been allowed or abandoned. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on June 21, 2010 is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be returned to applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at telephone number 571-272-3088. 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.

/Hassan Kizou/

Hassan Kizou
Quality Assurance Specialist
Technology Center 2400

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Samsung R&D Center
c/o Myers Andras Sherman LLP
19900 MacArthur Blvd., Suite 1150
Irvine CA 92612

In re Application of: SHAO, HUAI-RONG et al.
Application No. 12014663
Filed: January 15, 2008
For: METHOD AND SYSTEM FOR WIRELESS COMMUNICATION USING OUT-OF-BAND CHANNELS

DECISION ON PETITION TO EXPUNGE INFORMATION UNDER 37 CFR 1.59

MAILED

OCT 01 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

This is a supplemental decision on the petition under 37 CFR § 1.59(b), filed on June 21, 2010, to expunge information submitted pursuant to MPEP § 724.02. This supplemental decision is being sent to clarify the status of the petition.

The decision on the petition will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided

Petitioner requests that the information submitted on June 22, 2010 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on June 21, 2010 is considered to be "material." If the information is not considered by the examiner to be material, the information will be returned to applicant.

The document(s) in question will not be available to the public during prosecution.

Telephone inquiries concerning this decision should be directed to the undersigned at telephone number 571-272-3088. 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.

/Hassan Kizou/
Hassan Kizou
Quality Assurance Specialist
Technology Center 2400

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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.
12/014,663	01/15/2008	Huai-Rong Shao	SAM2B.PAU.107	1993

97001 7590 09/08/2011
Myers Andras Sherman & Zarrabian LLP
(Samsung R&D Center)
1411 5th Street, Suite 306
Santa Monica, CA 90401

EXAMINER
PATEL, JAY P

ART UNIT	PAPER NUMBER
2466	

MAIL DATE	DELIVERY MODE
09/08/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MYERS ANDRAS SHERMAN & ZARRABIAN LLP
(SAMSUNG R&D CENTER)
1411 5TH STREET, SUITE 306
SANTA MONICA CA 90401

MAILED

SEP 06 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

In re Application of: SHAO et al.
Appl. No.: **12/014663**
Filed: January 15, 2008
For: METHOD AND SYSTEM FOR WIRELESS COMMUNICATION USING OUT-OF-BAND CHANNELS

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on **August 22, 2011**, to expunge information submitted pursuant to MPEP § 724.02.

The petition is **DISMISSED**.

Petitioner requests that the information submitted on August 22, 2011 and identified as "WirelessHD Specification, Revision 0.1" be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The petition is premature because the application has not been allowed or abandoned. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on 22 August 2011, identified as "WirelessHD Specification, Revision 0.1" is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3902.
/dl/

/Beatriz Prieto/

Beatriz Prieto, WQAS
Technology Center 2400

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SETTER ROCHE LLP
P.O. BOX 780
ERIE CO 80516

MAILED

FEB 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Deka et al.	:	
Application No. 12/014,688	:	DECISION ON PETITION
Filed: January 15, 2008	:	
Attorney Docket No. 617.0016	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before December 21, 2010, as required by the Notice of Allowance and Fee(s) Due mailed September 21, 2010. Accordingly, the date of abandonment of this application is December 22, 2010. A Notice of Abandonment was mailed January 7, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Publishing Division for processing into a patent.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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.
12/014,693	01/15/2008	Huai-Rong Shao	SAM2B.PAU.114	1037

97001 7590 04/19/2011
Myers Andras Sherman & Zarrabian LLP
(Samsung R&D Center)
1411 5th Street, Suite 306
Santa Monica, CA 90401

EXAMINER
GARY, ERIKA A

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
04/19/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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1411 5th Street, Suite 306
Santa Monica CA 90401

In re application of	:	
SHAO, HUAI-RONG et al.	:	DECISION
Application Serial No. **12/014,693**	:	ON PETITION
Filed: **January 15, 2008**	:	
Attorney Docket Number: **SAM2B.PAU.114**		
METHOD AND SYSTEM FOR DEVICE DISCOVERY IN WIRELESS COMMUNICATION	:	

This is a response to the petition under 37 CFR 1.59(b), filed April 5, 2011 to expunge information from the above identified application.

The petition is **granted**.

Petitioner requests that information submitted on April 5, 2011 be expunged from the record. Petitioner states that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public and the information has not otherwise been made public. By reason of Notice of Allowability mailed April 11, 2011, the examiner has determined the materials submitted under MPEP § 724.02 not to be material to the examination of the instant application to a reasonable examiner. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The expunged material is returned herewith.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Any inquiry regarding this decision should be directed to Daniel Swerdlow, Quality Assurance Specialist, at (571) 272-7531.

/Daniel Swerdlow/

Daniel Swerdlow
Quality Assurance Specialist
Technology Center 2600
Communications

Enclosure: Proprietary document received April 5, 2011.

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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.
12/014,693	01/15/2008	Huai-Rong Shao	SAM2B.PAU.114	1037

97001 7590 08/24/2011
Myers Andras Sherman & Zarrabian LLP
(Samsung R&D Center)
1411 5th Street, Suite 306
Santa Monica, CA 90401

EXAMINER
GARY, ERIKA A

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
08/24/2011	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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Myers Andras Sherman & Zarrabian LLP
(Samsung R&D Center)
1411 5th Street, Suite 306
Santa Monica CA 90401

In re application of	:	
SHAO, HUAI-RONG et al.	:	DECISION
Application Serial No. **12/014,693**	:	ON PETITION
Filed: **January 15, 2008**	:	
Attorney Docket Number: **SAM2B.PAU.114**		
METHOD AND SYSTEM FOR DEVICE DISCOVERY IN WIRELESS COMMUNICATION	:	

This is a response to the petition under 37 CFR 1.59(b), filed July 11, 2011 to expunge information from the above identified application.

The petition is **granted**.

Petitioner requests that information submitted on July 11, 2011 be expunged from the record. Petitioner states that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public and the information has not otherwise been made public. The examiner has determined that the materials submitted under MPEP § 724.02 are not material to the examination of the instant application to a reasonable examiner. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The expunged material is returned herewith.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Any inquiry regarding this decision should be directed to Daniel Swerdlow, Quality Assurance Specialist, at (571) 272-7531.

/Daniel Swerdlow/

Daniel Swerdlow
Quality Assurance Specialist
Technology Center 2600
Communications

Enclosure: Proprietary document received July 11, 2011.

UNITED STATES PATENT AND TRADEMARK OFFICE

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THERMO FINNIGAN LLC
355 RIVER OAKS PARKWAY
SAN JOSE, CA 95134

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of :
Michael W. SENKO :
Application No. 12/014,701 :
Filed: January 15, 2008 :
Attorney Docket No. **3360US1/NAT** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed August 4, 2010, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on May 27, 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 review of the file record discloses that on January 15, 2008, petitioner submitted a nonpublication request under 35 U.S.C. 122(b). However, no rescission of the previous nonpublication request has been filed. Accordingly, the petition cannot be considered at this time. A PTO/SB/36 Rescission of Previous Nonpublication Request form has been enclosed for petitioner's convenience.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled

"Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: PTO/SB/36 Rescission of Previous Nonpublication Request Form

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

THERMO FINNIGAN LLC
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SAN JOSE, CA 95134

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Application of	:	
Michael W. SENKO	:	
Application No. 12/014,701	:	DECISION ON PETITION
Filed: January 15, 2008	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **3360US1/NAT**	:	

This is a decision on the renewed petition, filed March 22, 2011, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on May 27, 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 September 22, 2011 accompanies this decision on petition.

There is no indication that the petition is signed by a registered patent attorney of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Michael C. Staggs appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Staggs desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being forwarded to Technology Center Art Unit 2881 for examination in due course.

Thurrnan K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/014,701	01/15/2008	Michael W. Senko	3360US1/NAT

CONFIRMATION NO. 1048

44064
THERMO FINNIGAN LLC
355 RIVER OAKS PARKWAY
SAN JOSE, CA 95134

NONPUBLICATION RESCISSION LETTER

OC000000048265083

Date Mailed: 06/17/2011

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 09/22/2011.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/magraves/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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.
12/014,705	01/15/2008	Harkirat Singh	SAM2B.PAU.115	1052

97001 7590 08/04/2011
Myers Andras Sherman & Zarrabian LLP
(Samsung R&D Center)
1411 5th Street, Suite 306
Santa Monica, CA 90401

EXAMINER
PATEL, JAY P

ART UNIT	PAPER NUMBER
2466	

MAIL DATE	DELIVERY MODE
08/04/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Myers Andras Sherman & Zarrabian LLP
(Samsung R&D Center)
1411 5th Street, Suite 306
Santa Monica CA 90401

MAILED

AUG 04 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

In re Application of: Harkirat Singh et al.
Application No. 12/014705
Filed: January 15, 2008
Docket No. **SAM2B.PAU.115**
Title: **METHOD AND SYSTEM FOR WIRELESS COMMUNICATION BY SPATIAL REUSE**

DECISION ON PETITION FOR EXPUNGING INFORMATION UNDER UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on April 15, 2011, to expunge information from the above identified application.

The petition is **DISMISSED**.

Petitioner requests that a document entitled "WirelessHD Specification Revision 0.1", WirelessHD, LLC, 12 July 2006, pp. i-167, United States, filed April 15, 2011, be expunged from the record.

Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file.

The petition is premature because the application has not been allowed or abandoned. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of

patentability of the claims. Thus, the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on April 15, 2011 is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be removed from the official file.

Any inquiry regarding this decision should be directed to the undersigned whose telephone number is (571) 272-7294.

/Christopher Grant/

Christopher Grant
Quality Assurance Specialist
Technology Center 2400
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/014,705	01/15/2008	Harkirat Singh	SAM2B.PAU.115	1052

97001 7590 02/08/2012
Myers Andras Sherman & Zarrabian LLP
(Samsung R&D Center)
1411 5th Street, Suite 306
Santa Monica, CA 90401

EXAMINER
PATEL, JAY P

ART UNIT	PAPER NUMBER
2466	

MAIL DATE	DELIVERY MODE
02/08/2012	PAPER

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The time period for reply, if any, is set in the attached communication.

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Santa Monica CA 90401

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FEB 0 6 2012

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

In re Application of: Harkirat Singh et al.)
Application No. 12/014705)
Filed: January 15, 2008)
Docket No. **SAM2B.PAU.115**)
Title: **METHOD AND SYSTEM FOR WIRELESS COMMUNICATION BY SPATIAL REUSE**)

DECISION ON PETITION FOR EXPUNGING INFORMATION UNDER UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 14 December 2011, to expunge information submitted pursuant to MPEP § 724.05.

The petition is **GRANTED**.

Petitioner requests that the information submitted on 14 December 2011 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

As the application has now been allowed a determination can be made over whether the references to be expunged are "material" to the examination of the application or not. A review of the file indicates that the references are not "material". Therefore, the petition is granted.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged materials submitted on December 14, 2011 and April 15, 2011 have been destroyed, the artifact folders are closed and therefore the materials will not be returned.

Any inquiry regarding this decision should be directed to the undersigned whose telephone number is (571) 272-7294.

/Christopher Grant/

Christopher Grant
Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/014,705	01/15/2008	Harkirat Singh	SAM2B.PAU.115	1052

97001 7590 02/08/2012
Myers Andras Sherman & Zarrabian LLP
(Samsung R&D Center)
1411 5th Street, Suite 306
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EXAMINER
PATEL, JAY P

ART UNIT	PAPER NUMBER
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FEB 06 2012

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

In re Application of: Harkirat Singh et al.
Application No. 12/014705
Filed: January 15, 2008
Docket No. **SAM2B.PAU.115**
Title: **METHOD AND SYSTEM FOR WIRELESS COMMUNICATION BY SPATIAL REUSE**

DECISION ON PETITION FOR EXPUNGING INFORMATION UNDER UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 14 December 2011, to expunge information submitted pursuant to MPEP § 724.05.

The petition is **GRANTED**.

Petitioner requests that the information submitted on 14 December 2011 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

As the application has now been allowed a determination can be made over whether the references to be expunged are "material" to the examination of the application or not. A review of the file indicates that the references are not "material". Therefore, the petition is granted.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged materials submitted on December 14, 2011 and April 15, 2011 have been destroyed, the artifact folders are closed and therefore the materials will not be returned.

Any inquiry regarding this decision should be directed to the undersigned whose telephone number is (571) 272-7294.

/Christopher Grant/

Christopher Grant
Quality Assurance Specialist
Technology Center 2400
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/014,709	01/15/2008	Huai-Rong Shao	SAM2B.PAU.116	1061

97001 7590 07/20/2011
Myers Andras Sherman & Zarrabian LLP
(Samsung R&D Center)
1411 5th Street, Suite 306
Santa Monica, CA 90401

EXAMINER
PATEL, JAY P

ART UNIT	PAPER NUMBER
2466	

MAIL DATE	DELIVERY MODE
07/20/2011	PAPER

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Santa Monica, CA 90401

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JUN 19 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

In re Application of: Shao, Huai-Rong et al
Appl. No.: 12/014,709
Filed: January 15, 2008
For: METHOD AND SYSTEM FOR WIRELESS COMMUNICATION USING CHANNEL SELECTION AND BANDWIDTH RESERVATION

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a response to the petition under 37 CFR 1.59(b), filed March 21, 2011, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an Ex parte Quayle action or a Notice of Abandonment, at which time the petition will be decided.
Petitioner requests that a document entitled "WirelessHD Specification, Revision 0.1," WirelessHD, LLC., 12 July 2006, pp i-167, filed March 21, 2011, be expunged from the record.

Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3126.

/Chau Nguyen/

Chau Nguyen
QAS, Technology Center 2400

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/014,709	01/15/2008	Huai-Rong Shao	SAM2B.PAU.116	1061

97001 7590 12/02/2011
Myers Andras Sherman & Zarrabian LLP
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1411 5th Street, Suite 306
Santa Monica, CA 90401

EXAMINER
PATEL, JAY P

ART UNIT	PAPER NUMBER
2466	

MAIL DATE	DELIVERY MODE
12/02/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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DEC 02 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

In re Application of: Shao, Huai-Rong et al
Appl. No.: 12/014,709
Filed: January 15, 2008
For: METHOD AND SYSTEM FOR WIRELESS COMMUNICATION USING CHANNEL SELECTION AND BANDWIDTH RESERVATION

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a response to the petition under 37 CFR 1.59(b), filed September 9, 2011, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an Ex parte Quayle action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that a document entitled "WirelessHD Specification, Revision 0.2 Draft 1," WirelessHD, LLC., 12 July 2006, pp i-221, filed September 9, 2011, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3126.

/Chau Nguyen/

Chau Nguyen
QAS, Technology Center 2400

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3811 BEE CAVES ROAD
SUITE 204
AUSTIN TX 78746

MAILED

NOV 16 2011

OFFICE OF PETITIONS

In re Application of :
Paul V. Morinville :
Application No. 12/014,887 : DECISION ON PETITION
Filed: January 16, 2008 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: IBIG1100-10

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 1, 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 instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

It is initially pointed out that the "amendment" submitted with the petition is unacceptable as drafted and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The

pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Further, 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., August 2001), Section 201.11, Reference to First Application.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment[1] stating the relationship of the prior-filed applications to the instant application is required.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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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

[1] *Note* 37 CFR 1.121

By Internet: EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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LAW OFFICES OF MARK L. BERRIER
3811 BEE CAVES ROAD
SUITE 204
AUSTIN, TX 78746

MAILED
JAN 11 2012
OFFICE OF PETITIONS

In re Application of	:	
Paul V. Morinville	:	
Application No. 12/014,887	:	DECISION ON PETITION
Filed: January 16, 2008	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: IBIG1100-10	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed November 29, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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 comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a

proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application is related to Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed application to this application, are required.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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By hand: Customer Service Window
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Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

By internet: EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/
Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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FEB 22 2012

OFFICE OF PETITIONS

In re Application of
Paul V. Morinville
Application No. 12/014,887
Filed: January 16, 2008
Attorney Docket No.: IBIG1100-10

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 30 2012, 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.

The application is being forwarded to Technology Center Art Unit 3685 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

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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
12/014,887	01/16/2008	3685	1030	IBIG1100-10	20	3

CONFIRMATION NO. 1374

CORRECTED FILING RECEIPT

42671
LAW OFFICES OF MARK L. BERRIER
3811 BEE CAVES ROAD
SUITE 204
AUSTIN, TX 78746

OC000000052519658

Date Mailed: 02/10/2012

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)

Paul V. Morinville, Georgetown, TX;

Power of Attorney: The patent practitioners associated with Customer Number 42671

Domestic Priority data as claimed by applicant

This application is a CON of 11/757,709 06/04/2007
which is a CON of 09/990,954 11/21/2001 PAT 7251666
which is a CIP of 09/770,163 01/26/2001 ABN
which claims benefit of 60/179,555 02/01/2000

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: 02/04/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/014,887**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Content Hierarchy

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).

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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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BIB DATA SHEET

CONFIRMATION NO. 1475

SERIAL NUMBER	FILING or 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
12/014,939	01/16/2008 RULE	438	2894	303.A24US1

APPLICANTS
Jun Liu, Boise, ID;
Michael P. Violette, Boise, ID;

**** CONTINUING DATA ***************************

**** FOREIGN APPLICATIONS ***************************

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED ****
02/05/2008

Foreign Priority claimed	☐ Yes ☑ No		STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS
35 USC 119(a-d) conditions met	☐ Yes ☑ No	☐ Met after Allowance				
Verified and Acknowledged	/MOHAMMAD M CHOUDHRY/ Examiner's Signature	Initials	ID	14	25	5

ADDRESS

SCHWEGMAN, LUNDBERG & WOESSNER/MICRON
P.O. BOX 2938
MINNEAPOLIS, MN 55402
UNITED STATES

TITLE

3-D AND 3-D SCHOTTKY DIODE FOR CROSS-POINT, VARIABLE-RESISTANCE MATERIAL MEMORIES, PROCESSES OF FORMING SAME, AND METHODS OF USING SAME

FILING FEE RECEIVED		
1700	FEES: Authority has been given in Paper No._____ to charge/credit DEPOSIT ACCOUNT No._____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

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SHEPPARD MULLIN RICHTER & HAMPTON LLP
12275 El Camino Real
Suite 200
San Diego CA 92130

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of :
Christophe Pierrat :
Application No. 12/014,958 :
Filed: January 16, 2008 :
Attorney Docket No. **041Y-134653 (07PA-190DS)** :

ON PETITION

This is a decision on the renewed petition, filed July 21, 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).

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Anup A. Suresh appearing on the petition shall constitute a representation to the United States Patent and trademark Office that petitioner is authorized to represent the particular party on whose behalf he acts. If Anup Suresh desires to be acknowledged as the attorney of record in this file, the appropriate power of attorney documents must be submitted.

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 January 8, 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 November 25, 2010, accompanies this decision on petition.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being forward to Technology Center Art Unit 2825 for examination in due course.

JoAnne Burke
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/014,958	01/16/2008	Christophe Pierrat	041Y-134653 (07PA-190DS)

CONFIRMATION NO. 1512

73260
SHEPPARD MULLIN RICHTER & HAMPTON LLP
12275 El Camino Real
Suite 200
San Diego, CA 92130

NONPUBLICATION RESCISSION LETTER

OC000000043058905

Date Mailed: 08/16/2010

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 11/25/2010.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/jlburke/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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801 CALIFORNIA ST.
MOUNTAIN VIEW, CA 94041

MAILED

FEB 23 2012

OFFICE OF PETITIONS

In re Application of
Jyrki Alakuijala, et al.
Application No. 12/014,964
Filed: January 16, 2008
Attorney Docket No.: 24207-12760

ON PETITION

This is a decision on the petition, filed January 23, 2012, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned for failure to submit a response on or before December 20, 2011, as required by the Notice of Allowability mailed September 20, 2011. A response was filed on January 13, 2012. Consequently, on January 17, 2012, a Notice of Abandonment was mailed. On January 23, 2012, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment to the drawing, (2) the petition fee of $1,860; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to oversee the review of the response filed January 13, 2012 and for processing 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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MAILED

NOV 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Pierrat	:	
Application No. 12/014,985	:	DECISION ON PETITION
Filed: January 16, 2008	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 041Y-134654 (07PA-188DS)	:	

This is a decision on the petition, filed August 5, 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 January 8, 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 January 27, 2011 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being forwarded to Technology Center Art Unit 2895 for further processing.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/014,985	01/16/2008	Christophe Pierrat	041Y-134654 (07PA-188DS)

CONFIRMATION NO. 1562

73260
SHEPPARD MULLIN RICHTER & HAMPTON LLP
12275 El Camino Real
Suite 200
San Diego, CA 92130

NONPUBLICATION RESCISSION LETTER

OC000000044090934

Date Mailed: 10/20/2010

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 01/27/2011.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/ambrown/

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
12/014,985	01/16/2008	Christophe Pierrat	041Y-134654 (07PA-188DS)

CONFIRMATION NO. 1562

73260
SHEPPARD MULLIN RICHTER & HAMPTON LLP
12275 El Camino Real
Suite 200
San Diego, CA 92130

NONPUBLICATION RESCISSION LETTER

OC000000044090934

Date Mailed: 10/20/2010

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 01/27/2011.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/ambrown/

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/015,006	01/16/2008	Tomotake NASHIKI	081014	1597

38834 7590 02/03/2011
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

EXAMINER
RUDE, TIMOTHY L

ART UNIT	PAPER NUMBER
2871	

NOTIFICATION DATE	DELIVERY MODE
02/03/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentmail@whda.com

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

In re Application of	
NASHIKI et al.	**: DECISION ON REQUEST TO**
Application No.: 12/015,006	**: PARTICIPATE IN THE PATENT**
Filed: 16 January 2008	**: PROSECUTION HIGHWAY**
Attorney Docket No.: 081014	**: PROGRAM AND PETITION**
For: TRANSPARENT CONDUCTIVE	**: TO MAKE SPECIAL UNDER**
FILM, METHOD FOR PRODUCTION	**: 37 CFR 1.102(a)**
THEREOF AND TOUCH PANEL	
THEREWITH	

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 10 January 2011, to make the above-identified application special.

The request and petition are **DISMISSED**.

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 then 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 obtain a copy from the 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) and
   c. A statement that the English translation is accurate;

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 claim(s) or
      ii. if the allowable/patentable claims(s) are from a "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 above is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the 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 language translation of the JPO Office action from (5)(a)(i)-(ii) above
   c. A statement that the English translation is accurate;

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 the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);

Conditions (2-5) above are considered to have been met. However, the request to participate in the PPH pilot program and petition fails meet condition1 (1) and (6).

Regarding the requirement of condition (1), applicant has failed to establish a valid claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO. Where the JPO application with similar claims is not the same application from which the U.S. application claims priority then the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application.

Regarding the requirement of condition (6), applicant has failed to submit an IDS listing all the documents cited by the JPO examiner in the JPO office action and provided a copy. Specifically, WO 2006/126604 was not cited on an IDS and no copy has been received. The citation of patent family documents does not fulfill this requirement.

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) using the document description: Petition to make special under Patent Pros Hwy. 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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/015,006	01/16/2008	Tomotake NASHIKI	081014	1597

38834 7590 05/11/2011
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

EXAMINER
RUDE, TIMOTHY L

ART UNIT	PAPER NUMBER
2871	

NOTIFICATION DATE	DELIVERY MODE
05/11/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentmail@whda.com

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

In re Application of	
NASHIKI et al.	**: DECISION ON REQUEST TO**
Application No.: 12/015,006	**: PARTICIPATE IN THE PATENT**
Filed: 16 January 2008	**: PROSECUTION HIGHWAY**
Attorney Docket No.: 081014	**: PROGRAM AND PETITION**
For: TRANSPARENT CONDUCTIVE	**: TO MAKE SPECIAL UNDER**
FILM, METHOD FOR PRODUCTION	**: 37 CFR 1.102(a)**
THEREOF AND TOUCH PANEL	
THEREWITH	

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 10 January 2011 and renewed on 11 February 2011, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

A grantable request to participate in the PPH pilot program and petition to make special require:

1. The U.S. application is

    a. a Paris Convention application which either
        i. validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more applications filed in the JPO, or
        ii. validly claims priority to a PCT application that contains no priority claims, or
    b. a national stage application under the PCT (an application which entered the national stage in the U.S. from a PCT international application after compliance with 35 U.S.C. 371), which PCT application
        i. validly claims priority to an application filed in the JPO, or
        ii. validly claims priority to a PCT application that contains no priority claims, or
        iii. contains no priority claim, or
    c. a so-called bypass application filed under 35 U.S.C. 111(a) which validly claims benefit under 35 U.S.C. 120 to a PCT application, which PCT application
        i. validly claims priority to an application filed in the JPO, or

ii. validly claims priority to a PCT application that contains no priority claims, or
iii. contains no priority claim;

2. Applicant must submit a copy of:
   a. The allowable/patentable claim(s) from the JPO application(s);
   b. An English translation of the allowable/patentable claim(s) and
   c. A statement that the English translation is accurate;
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 claim(s) or
      ii. if the allowable/patentable claims(s) are from a "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;
   b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above
   c. A statement that the English translation is accurate;
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 the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);

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.

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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P.O. Box 1450
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ROPES & GRAY LLP
IPRM – FLOOR 43
PRUDENTIAL TOWER
800 BOYLSTON STREET
BOSTON MA 02199-3600

MAILED

NOV 02 2010

OFFICE OF PETITIONS

In re Application of	:	
David M. COHEN, et al	:	
Application No. 12/015,113	:	DECISION ON PETITION
Filed: January 16, 2008	:	TO WITHDRAW
Attorney Docket No. 106616-0004-101	:	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 7, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by David P. Halstead, J.D. Ph.D. on behalf of all the attorneys of record.

All the attorneys of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address first copied below until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: DERMWORX INC.
1835 EAST HALLANDALE BEACH BOULEVARD,
SUITE 612
HALLANDALE FL 33009

cc: DAVID P. HALSTEAD, J.D., PH.D.
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110

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
12/015,113	01/16/2008	David M. Cohen	106616-0004-101

CONFIRMATION NO. 1775

POWER OF ATTORNEY NOTICE

28120
ROPES & GRAY LLP
IPRM - Floor 43
PRUDENTIAL TOWER
800 BOYLSTON STREET
BOSTON, MA 02199-3600

OC000000044296913

Date Mailed: 11/01/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/07/2010.

- 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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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

MAILED

FEB 17 2011

OFFICE OF PETITIONS

In re Application of :
Lars BALTZER :
Application No. 12/015,161 : DECISION GRANTING PETITION
Filed: January 16, 2008 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **1004080-000182** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 16, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 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) 272-7253.

This application is being referred to Technology Center AU 1652 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/015,230	01/16/2008	Matthew M. Lawler	50683/002002	1986

21559 7590 04/05/2012
CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

EXAMINER
SNYDER, STUART

ART UNIT	PAPER NUMBER
1648	

NOTIFICATION DATE	DELIVERY MODE
04/05/2012	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentadministrator@clarkelbing.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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APR 05 2012

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of:	:
Lawler et al.	:
Serial No.: 12/015,230	: PETITION DECISION
Filed: January 16, 2008	:
Attorney Docket No.: **50683/002002**	:

This is in response to the petition under 37 CFR § 1.181, filed March 23, 2012, requesting that the finality of the Office action of January 24, 2012 be withdrawn.

BACKGROUND

Only the Office action(s) pertinent to the petition will be discussed herein.

The examiner mailed a non-final Office action on September 2, 2011 setting a three month statutory limit for reply. Claims 1-3, 7-10, 58, 60-62, 68, 69, 73-75, 91 and 92 were pending and were rejected. Claims 1-3, 8-14, 38, 46-47, 58, 60, 68-69, 73-75 and 91-92 were rejected under 35 U.S.C. 103(a) as being unpatentable over Mirzabekov et al. and del Campo et al. as previously applied to claims 1-3, 8-14, 38, 46-47, 58, 60, 68-69, and 73- 75 in the previous Office Action in further view of Kuras.

In response thereto, applicants submitted an amendment with remarks on December 16, 2011 addressing the rejection set forth in the Office action of September 2, 2011.

On January 24, 2012, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final action, claims 1-3, 8-14, 38, 46, 47, 58, 60, 68 , 69, 73-75, 91 and 92 were pending and were rejected. Claims 1-3, 8-14, 38, 46-47, 58, 60, 68-69, 73-75 and 91-92 were again rejected under 35 U.S.C. 103(a) as being unpatentable over Mirzabekov et al. and del Campo et al. as previously applied to claims 1-3, 8-14, 38, 46-47, 58, 60, 68-69, and 73- 75 in the previous Office Action in further view of Kuras.

In response thereto, applicants filed a petition on March 23, 2012, requesting that the finality of the Office action of January 24, 2012 be withdrawn.

DISCUSSION

The petition of March 23, 2012 and the file history have been carefully considered.

In the petition filed by applicants on March 23, 2012, applicants argue that in the final Office action "...the Office purported to maintain the previous rejection of all claims under § 103(a) as unpatentable over Mirzabekov and del Campo in view of Kuras, but in fact relied on an additional reference, Sandmann et al. (Nat. Protoc. 1:2839-2855, 2006; "Sandmann") (page 5 of the present Action), resulting in a new basis of rejection." Applicants also point out

> "M.P.E.P. § 706.07(a) sets forth the criteria for making a rejection final: 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).

Thus, a new rejection in a second or subsequent Office Action may only be made if it was necessitated by an amendment or based on information in an IDS filed after issuance of a previous, non-final Office Action."

Accordingly, applicants state "Because the present § 103(a) rejection was neither necessitated by an amendment nor based on information in an IDS filed after issuance of a previous, non-final Office Action, and because the present rejection is new, it is improper to make the rejection final. Withdrawal of finality is respectfully requested."

Applicants' points are well-taken and found persuasive. A detailed review of the Office action shows that the examiner did set forth a new reference on page 5 of the final Office action. Consequently, applicants have not been provided a fair opportunity to carefully consider and respond to this new reference included in the final Office action. Accordingly, 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 as in the instant case nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c).

DECISION

The petition is **GRANTED**.

The final Office action mailed January 24, 2012 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.

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.

George C. Elliott

George Elliott
Director, Technology Center 1600

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
NOV 04 2010
OFFICE OF PETITIONS

In re Application of	:	
Rotman et al.	:	
Application No. 12/015,326	:	DECISION ON PETITION
Filed: January 16, 2008	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 18980US02	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 7, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **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.

Applicants desire to claim benefit of Application No. 10/790,614, filed March 1, 2004. It is not possible for the instant application to claim direct benefit of Application No. 10/790,614 because the instant application was filed on January 16, 2008 and application No. 10/790,614 matured into U.S. Patent No. 7,158,882 on January 2, 2007, well prior to the filing date of the instant application. Therefore, there is no continuity between instant application and Application No. 10/790,614. Simply put, they were never copending.

Even if there were copendency between the two applications, the amendment as drafted is unacceptable. ***For future reference***:. 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).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

By internet: EFS-Web
www.uspto.gov/ebc/efs_help.html
(for help using EFS-Web call the
Patent Electronic Business Center
at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
250 PARK AVENUE
NEW YORK NY 10177

MAILED
OCT 12 2010
OFFICE OF PETITIONS

In re Application of	:	
Andrew Goodfellow, et al.	:	
Application No. 12/015,349	:	ON PETITION
Filed: January 16, 2008	:	
Attorney Docket No. 80942-5500	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 3, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 4, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 3611 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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CHOATE HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Thomas L. Zampini II et al	:	
Application No. 12/015,376	:	DECISION ON PETITION
Filed: January 16, 2008	:	TO WITHDRAW
Attorney Docket No.: 2007719-0005 (12S-003CON)	:	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 24, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request is filed by Brenda Herschbach Jarrell on behalf of all the practitioners of record.

The Office no longer accepts an address change to the new practitioner identified in the request, absent the filing of a power of attorney to the new representative. The Office will, however, change the correspondence address of record to the most current address provided for (1) the intervening assignee of the entire interest or (2) the first named inventor.

The request to withdraw from record cannot be approved at this time, since the Customer Number provided (48329) does not identify the intervening assignee of the entire interest or the first named inventor.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-3210. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
12/015,398	01/16/2008	ARNOUD STRUYK	2169-003 US REG	2301

27522 7590 08/09/2010
SEAN W. GOODWIN
222 PARKSIDE PLACE
602-12 AVENUE S.W.
CALGARY, AB T2R 1J3
CANADA

EXAMINER
GOTTLIEB, ELIZABETH C

ART UNIT	PAPER NUMBER
3676	

MAIL DATE	DELIVERY MODE
08/09/2010	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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AUG -9 2010

In re Application of	:	
STRUYK et al	:	**DECISION GRANTING**
Issue Date: December 15, 2009	:	**PETITION**
Appl No.: 12/015,398	:	*37 CFR 1.324*
Patent no.: 7,631,694	:	
Filed: January 16, 2008	:	
For: DOWNHOLE STEAM INJECTOR SPLITTER	:	
	:	

This is a decision on the petition filed June 1, 2010 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Shane Bomar
Supervisory Patent Examiner
Art Unit 3676
Technology Center 3600

SEAN W. GOODWIN
222 PARKSIDE PLACE
602-12 AVENUE S.W.
CALGARY, CANADA T2R 1J3

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DATE: August 9, 2010
TO: Certificates of Correction Branch
FROM: Shane Bomar
SPE, Art Unit 3676
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,631,694 as specified on the attached Certificate.

Shane Bomar, SPE
Art Unit 3676

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,631,694
Patented: December 15, 2009

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Arnoud Struyk, Calgary, AB
Denis Gilbert, Calgary, AB
John Essien Arthur, Calgary, AB

Shane Bomar
Supervisory Patent Examiner
Art Unit 3676

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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CHIEN-HUI SU
P. O. BOX 70-121 TAICHUNG
TAICHUNG CITY 40899 TW TAIWAN

MAILED

FEB 11 2011

OFFICE OF PETITIONS

In re Application of	:	
Teng Yuan Kuo	:	
Application No. 12/015,517	:	DECISION ON PETITION
Filed: January 17, 2008	:	
Attorney Docket No. P-1562	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 8, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, December 22, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 23, 2009. A Notice of Abandonment was mailed July 8, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation, (2) the petition fee of $810.00 (previously paid on May 12, 2010), and (3) a proper statement of unintentional delay.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 12/686,313, filed January 12, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT NY 13760

MAILED
MAR 22 2012
OFFICE OF PETITIONS

In re Application of	:	
Bhat et al.	:	
Application No. 12/015,631	:	DECISION ON PETITION
Filed: January 17, 2008	:	
Attorney Docket No. IN920040010US3	:	

This is a decision on the petition under 37 CFR 1.182, filed, February 17, 2012, to correct the spelling of the name of inventor "M. Chandrika" to – Chandrika Madhwacharya --.

The petition is **DISMISSED** as moot.

A review of the record shows that changes to inventor's name have been entered and a filing receipt with the requested changes was mailed on February 23, 2012.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3215.

The matter is being referred to the Office of Data Management for further processing in the normal course of business.

Charlema Grant
Attorney Advisor
Office of Petitions

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MAR 10 2011

OFFICE OF PETITIONS

ICE MILLER, LLP
ONE AMERICAN SQUARE, SUITE 3100
INDIANAPOLIS, IN 46282-0200

In re Patent No. 7,820,327	:	
Issue Date: October 26, 2010	:	
Application No. 12/015,901	:	NOTICE
Filed: January 17, 2008	:	
Patentee(s): Hiroyuki Yumoto, et. al.	:	

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on January 6, 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.

Additionally, the request is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Eduardo J. Quinones appearing on the request shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and any future fee(s) submitted must be paid at the large entity rate.

It is noted that the correspondence address given in the present request differs from the address of record. A courtesy copy of this Notice is being mailed to the address given in the request. Thereafter, any future communications from the Office will be mailed solely to the fee address of record.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Eduardo J. Quinones
525 Okeechobee Blvd., 15th Floor
West Palm Beach, FL 33401

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
FEB 24 2012
OFFICE OF PETITIONS

SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

In re Patent No. 8,021,376	:	
Issue Date: September 20, 2011	:	
Application No. 12/015,911	:	DECISION ON PETITION
Filed: January 17, 2008	:	
Attorney Docket No. 16224ZB	:	

This is a decision on the Request For Certificate Of Correction Under 37 C.F.R. §1.322, filed October 20, 2011, to accept the omission of "Olympus Corporation, Tokyo (JP)" as an additional assignee's name.

The request is **DISMISSED**.

Petitioner requests that the present request was submitted to accept the omission of "Olympus Corporation, Tokyo (JP)" as an additional assignee's name on the previously submitted PTOL-85B. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to accept the omission of an additional assignee's name to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 **before issuance of the patent**, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

Section 1481.01, Correction of Assignees' Names, of the Manual of Patent Examining Procedures (MPEP) states, in part:

> "The Transmittal Form portion (PTOL-85B) of the Notice of Allowance provides a space (item 3) for assignment data which should be completed

in order to comply with 37 CFR §3.81(b). Unless an assignee's name and address are identified in the appropriate space for specifying the assignee, (i.e., item 3 of the Transmittal Form PTOL-85B), the patent will issue to the applicant. Assignment data printed on the patent will be based solely on the information so supplied.

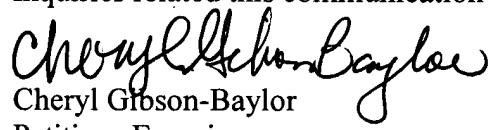
Any request for the issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee must:

(A) state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of patent;
(B) include a request for certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
(C) include the processing fee set forth in 37 CFR 1.17(i).

See 37 CFR §3.81(b)."

A review of United States Patent and Trademark Office (USPTO) records reveals that applicant submitted a first PTOL-85B, identifying only Apollo Endosurgery, Inc. as the assignee, on August 9, 2011 along with payment of the Issue Fee. On August 10, 2011, one day after payment of the Issue Fee, applicant submitted a second PTOL-85B that identified both Apollo Endosurgery, Inc. and Olympus Corporation as joint assignees. The second PTOL-85B was not accompanied by any request for issuance of the application in the name of the assignees identified thereon in accordance with 37 CFR 3.81(b). ***See Section 307, Issue to Assignee, of the Manual of Patent Examining Procedure (MPEP)***. In addition, the second PTOL-85B was not accompanied by any cover letter alerting the USPTO as to why it was filed or instructing the USPTO to what to do with it. Accordingly, it is appropriate to dismiss the present Request.

Inquiries related this communication should be directed to the undersigned at (571) 272-3213.



Cheryl Gibson-Baylor
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	12015925
Filing Date	17-Jan-2008
First Named Inventor	Andrey Nikitin
Art Unit	2825
Examiner Name	NGHIA DOAN
Attorney Docket Number	L13.12-0301/LSI 06-1034
Title	SIGNAL DELAY SKEW REDUCTION 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.
- [x] STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ( ) An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- (●) An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ( ) A sole inventor
- ( ) A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.
- ( ) A joint inventor; all of whom are signing this e-petition.
- ( ) The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/David D. Brush/
Name	David D. Brush
Registration Number	34557

UNITED STATES 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 28,2011

In re Application of :

Andrey Nikitin

Application No : 12015925

Filed : 17-Jan-2008

Attorney Docket No : L13.12-0301/LSI 06-1034

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed June 28,2011 , 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

MAILED

JAN 04 2011

OFFICE OF PETITIONS

In re Application of	:	
Barton et al.	:	
Application No. 12/015,940	:	DECISION ON PETITION
Filed: January 17, 2008	:	PURSUANT TO
Attorney Docket No.: TI-63444	:	37 C.F.R. § 1.137(B)
Title: SYSTEMS AND METHODS FOR REDUCING FLICKER NOISE IN AN OSCILLATOR	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed September 29, 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 reply in a timely manner to the non-final Office action, mailed March 23, 2010, 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 June 24, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The

Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted an amendment, the petition fee, and the proper statement of unintentional delay.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on September 29, 2010 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning this application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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

AUG 05 2010

OFFICE OF PETITIONS

JAMES A. KODAK
2626 BARRED OWL WAY
ODENTON, MD 21113

In re Application of	:	
Matthew Wayne WUERTHNER	:	
Application No. 12/015,954	:	DECISION ON PETITION
Filed: January 17, 2008	:	
Attorney Docket No. 08-01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 18, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before May 5, 2010. As required by the Notice of Allowance and Fee(s) Due, mailed February 5, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 6, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and publication fee of $300; (2) the petition fee of $810; and (3) and the required statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK NY 10022

MAILED
FEB 17 2012
OFFICE OF PETITIONS

In re Application of
Howard W. Lutnick al.
Application No. 12/015,990
Filed: January 17, 2008
Attorney Docket No. 07-2186A

: DECISION GRANTING PETITION

This is a decision on the petition filed February 2, 2012, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

The above-identified application became abandoned by operation of law, as a result of petitioner's failure to file a proper appeal brief within the time period provided in 37 CFR 1.192(a) after the filing of the Notice of Appeal on July 1, 2011. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Comes now petitioner with the instant petition to revive and an Appeal Brief under 37 CFR 41.37.

This application is being forwarded to Technology Center 3667 for review of the Appeal Brief filed February 2, 2012.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

/Patricia Faison-Ball/

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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TEXAS INSTRUMENTS
INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

MAILED
AUG 30 2010
OFFICE OF PETITIONS

In re Application of :
Kuehlwein, et al. :
Application No. 12/016,009 : DECISION
Filed/Deposited: 17 January, 2008 :
Attorney Docket No. TI-62202 :

This is a decision on the petition filed on 16 July, 2010, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

NOTE:

Petitioner has submitted a request and fee for extension of time following the expiration of the statutory period, which Petitioner—as one registered to practice before the Office—knows is not proper.

The fee is being refunded *via* deposit account.

Should Petitioner later find that the fee was not refunded, Petitioner should file a request with the Office of Finance and include therewith a copy of this decision.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the non-final Office action mailed on 15 December, 2009, with reply due absent extension of time on or before 15 March, 2010.

The application went abandoned by operation of law after midnight 15 March, 2010.

The Office mailed a Notice of Abandonment on 23 June, 2010.

On 16 July, 2010, Petitioner/Counsel filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with reply in the form of an amendment, and made the statement of unintentional delay.

As noted above, Petitioner has submitted a request and fee for extension of time following the expiration of the statutory period, which Petitioner—as one registered to practice before the Office—knows is not proper.

The fee is being refunded via Deposit Account 20-0669.

Should Petitioner later find that the fee was not refunded, Petitioner should file a request with the Office of Finance and include therewith a copy of this decision.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 2627 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

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[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.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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VEDDER PRICE P.C.
222 N. LASALLE STREET
CHICAGO IL 60601

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of	:	
John H. Whalen, et al.	:	DECISION ON PETITION
Application No. 12/016,073	:	TO WITHDRAW
Filed: January 17, 2008	:	FROM RECORD
Attorney Docket No. 27343.00.0090	:	

This is a decision on the renewed request to withdraw as attorney of record under 37 CFR § 1.36, filed October 12, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

> ***An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.***

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

SEP 14 2010

OFFICE OF PETITIONS

TARGET BRANDS INC.
1000 NICOLLET MALL, TPS-3165
MINNEAPOLIS MN 55403

In re Application of	:	
Clark et al.	:	
Application No. 12/016,102	:	ON PETITION
Filed: January 17, 2008	:	
Attorney Docket No. 2007-004104-0001	:	

This is a notice regarding your request, August 25, 2010, for acceptance of a fee deficiency submission under 37 CFR 1.28.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: NIXON & VANDERHYE P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203-1808

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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Law Office of Michael D. Eisenberg
Intellectual Property Law
3258 Caminito Eastbluff
Suite 89
San Diego CA 92037

MAILED
JUL 06 2011
OFFICE OF PETITIONS

In re Application of	:	
James J. Kramer	:	
Application No. 12/016,199	:	DECISION ON PETITION
Filed: January 17, 2008	:	
Attorney Docket No. KRAME-001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 22, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before May 2, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed February 1, 2011. Accordingly, the date of abandonment of this application is May 3, 2011. A Notice of Abandonment was mailed on May 19, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
DEC 08 2010
OFFICE OF PETITIONS

LAW FIRM OF NAREN THAPPETA
C/o Landon-IP Inc.,
1725 Jamieson Avenue
Alexandria VA 22314

In re Application of
Mathur, et al.
Application No. 12/016,246
Filed: January 18, 2008
Attorney Docket No. ORCL-077

ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 16, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

In accordance with 37 CFR 1.33(b), "[a]mendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by: (1) A patent practitioner of record appointed in compliance with § 1.32(b); (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34; (3) An assignee as provided for under § 3.71(b) of this chapter; or (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter."

The instant petition has not been executed in accordance with 37 CFR 1.33(b). Accordingly, treatment on the merits of the petition under 37 CFR 1.137(b) is not forthcoming.

Any request for reconsideration must be accompanied by a petition properly executed in accordance with 37 CFR 1.33(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450

Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAW FIRM OF NAREN THAPPETA
C/o Landon-IP Inc.,
1725 Jamieson Avenue
Alexandria VA 22314

MAILED
FEB 23 2011
OFFICE OF PETITIONS

In re Application of
Mathur, et al.
Application No. 12/016,246
Filed: January 18, 2008
Attorney Docket No. ORCL-077

ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 29, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned October 1, 2010 for failure to timely submit a proper reply to the Office action mailed August 30, 2010. The Office action set a one month shortened statutory period of time for reply. Notice of Abandonment was mailed November 9, 2010.

As previously indicated, the petition filed November 16, 2010 was not signed in accordance with 37 CFR 1.33(b).

The request for renewed petition filed December 29, 2010 fails to meet the requirements of a grantable petition filed pursuant to 37 CFR 1.137(b).

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 fails to satisfy requirement (3) set forth above. Any request for reconsideration must be accompanied by the required statement of unintentional delay signed in accordance with 37 CFR 1.33(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

LAW FIRM OF NAREN THAPPETA
C/o Landon-IP Inc.,
1725 Jamieson Avenue
Alexandria VA 22314

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Application of :
Mathur, et al. :
Application No. 12/016,246 : ON PETITION
Filed: January 18, 2008 :
Attorney Docket No. ORCL-077 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 28, 2011, to revive the above-identified application.

The above-identified application became abandoned October 1, 2010 for failure to timely submit a proper reply to the Office action mailed August 30, 2010. The Office action set a one month shortened statutory period of time for reply. Notice of Abandonment was mailed November 9, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

This instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

In view thereof, the petition to revive is hereby GRANTED.

This application is being forwarded to Group Art Unit 2158 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED
OCT 12 2010
OFFICE OF PETITIONS

In re Patent No. 7,650,868 :
Issue Date: January 26, 2010 :
Application No. 12/016,254 :
Filed: January 18, 2008 :
Attorney Docket No. AMK-249-492 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on July 30, 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) 272-3208.

/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.

SMITH HOPEN, PA
180 PINE AVENUE NORTH
OLDSMAR FL 34677

MAILED

JAN 06 2011

OFFICE OF PETITIONS

In re Application of	:	NOTICE
Anderson et al.	:	
Application Number: 12/016567	:	
Filing or 371(c) Date: 01/18/2008	:	
Attorney Docket Number: 1372.478.PRC	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed on October 28, 2010.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

DWood

Douglas Wood
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

THE ADAMS KENNEDY LAW FIRM, LLC
901 RIO GRANDE BLVD. NW
SUITE H262
ALBUQUERQUE NM 87111

MAILED
NOV 24 2010
OFFICE OF PETITIONS

In re Application of
James L. Thomas et al.
Application No. 12/016,711
Filed: January 18, 2008
Attorney Docket No.: UNM 783

ON PETITION

This is a decision on the petition filed September 22, 2010 under 37 CFR 1.137(b), which is being treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment for the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned on June 24, 2010 and a Notice of Abandonment was mailed July 14, 2010 for the applicant's failure to file corrected drawings in response to the Notice of Allowability mailed March 23, 2010.

Petitioner asserts that corrected drawings were not required in that the Examiner's Amendment related entirely and solely to the written description portion of the present application, and did not affect, alter or even suggest that amendment to the drawings as originally filed was necessary or desirable. In view thereof, no drawings were filed in response to the Notice.

Per confirmation with the Examiner of Record, the marking of element 5, Corrected Drawings, on the PTOL-37 form mailed March 23, 2010 was made in error, as no corrected drawings were necessary as a result of the Examiner's Amendment that was made as part of the March 23, 2010 Notice of Allowability. Therefore, the requirement for corrected drawings should be withdrawn, and the application should be allowed with the drawings as originally filed.

In view thereof, Corrected Drawings are not required, the holding of abandonment was mailed in error and is hereby withdrawn. As no petition fee is due, the credit card provided will be refunded in the amount of $810.

This matter will be referred to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KRUEGER ISELIN LLP (1391)
P O BOX 1906
CYPRESS, TX 77410-1906

MAILED

AUG 10 2011

OFFICE OF PETITIONS

In re Application of
Clive D. Menezes, et al.
Application No. 12/016,735
Filed: January 18, 2008
Attorney Docket No.: 1391-748.00

ON PETITION

This is a decision on the petition, filed August 1, 2011, to revive the above-identified application, under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before July 29, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed April 29, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 30, 2011. On August 1, 2011, the present petition was filed. A Notice of Abandonment was subsequently mailed on August 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 the $1,510 issue fee and the $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOANN VILLAMIZAR
CHEMTURA CORPORATION
199 BENSON ROAD
MIDDLEBURY CT 06749

MAILED
JUL 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Neri et al.	:	
Application No. 12/016,780	:	DECISION ON PETITION
Filed: January 18, 2008	:	
Attorney Docket No. GRLK-P121-US-01	:	

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 above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed November 8, 2010, which set a period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 9, 2010. A Notice of Abandonment was mailed June 6, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $1,620.00 and (3) a proper statement of unintentional delay.

Further, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

The application file is being referred to Technology Center AU 1761 for appropriate action on the amendment filed with the instant petition.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

M. Scott Carey
257 E. 7th Street, Apt 10
New York NY 10009

MAILED
OCT 12 2010
OFFICE OF PETITIONS

In re Application of	:	
Robert M. Herzog	:	
Application No. 12/016,864	:	DECISION ON PETITION
Filed: January 18, 2008	:	
	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed March 2, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 3, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application.

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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1175 extension of time fee submitted with the petition on September 7, 2010 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3626 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **M. Scott Carey**
319 Lafayette Street
Box 147
New York, NY 10012

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

REED SMITH LLP
P.O. BOX 488
PITTSBURGH PA 15230-0488

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
L. Sean Sadler	:	
Application No. 12/016,891	:	DECISION ON
Filed: January 18, 2008	:	PETITION TO WITHDRAW
Attorney Docket No. 07-010-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 June 25, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Richard T. Ting on behalf of all attorneys/agents associated with customer number 00718. All attorneys/agents associated with customer number 00718 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: L. Sean Sadler
5131 Cline Hollow Road
Export, PA 15632

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
12/016,891	01/18/2008	L. Sean SADLER	07-010-US

CONFIRMATION NO. 5223

POWER OF ATTORNEY NOTICE

718
REED SMITH LLP
P.O. BOX 488
PITTSBURGH, PA 15230-0488

OC000000043045535

Date Mailed: 08/13/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/25/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

JAN 17 2012

OFFICE OF PETITIONS

SYNOPSYS, INC.
C/O HAYNES BEFFEL & WOLFELD LLP
P.O. BOX 366
HALF MOON BAY CA 94019

In re Application of
Su, et al.
Application No. 12/017,025
Filed/Deposited: 19 January, 2008
Attorney Docket No. SYNP 1012-1

DECISION

This is a decision on the petition filed on 23 September, 2011, for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 15 February, 2011, with reply due absent extension of time on or before 15 May, 2011.

The application went abandoned by operation of law after midnight 15 May, 2011.

It does not appear that the Office mailed a Notice of Abandonment before a petition was filed.

On 23 September, 2011, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), a reply in the form of an amendment, and made the statement of unintentional delay.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

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

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18, formerly §10.18, to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

> prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 2825 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

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[4] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however , that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[5] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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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SCOTT C. HARRIS
Law Office of Scott C Harris, Inc.
P.O. BOX 1389
Rancho Santa Fe, CA 92067-1389

MAILED

AUG 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Scott C. Harris	:	
Application No. 12/017,032	:	DECISION ON PETITION
Filed: January 20, 2008	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BroadbandC2	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed on July 8, 2010, to accept an unintentionally delayed under 35 U.S.C. § 120 for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The renewed 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 present petition lacks item (1) above.

The Office acknowledges receipt of $1,410 for treatment of the present petition filed on July 8, 2010. However, petitioner should note that the amendment filed on November 21, 2009, does not cite the same continuity information as listed in the Application Data Sheet (ADS) filed on the same day. Petitioner should note that the amendment filed on November 21, 2009 states that the present application is a continuation of **12**/260,022, while the ADS filed on November 21, 2009 states that the present application is a continuation of **11**/260,022. Since there is a discrepancy between the amendment and ADS filed on

November 21, 2009, the present petition cannot be accepted. Thus, an amendment or supplemental ADS to correct the above matter is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40I Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Law Office of Scott C Harris, Inc.
P.O. BOX 1389
Rancho Santa Fe, CA 92067-1389

MAILED

DEC 17 2010

OFFICE OF PETITIONS

In re Application of	:	
Scott C. Harris	:	
Application No. 12/017,032	:	DECISION ON PETITION
Filed: January 20, 2008	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BroadbandC2	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed on September 6, 2010, to accept an unintentionally delayed under 35 U.S.C. § 120 for the benefit of priority to 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) 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 applications, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 1625 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center at (571) 272-2100.

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
12/017,032	01/20/2008	3717	540	BroadbandC2	17	4

CONFIRMATION NO. 5553

CORRECTED FILING RECEIPT

23844
SCOTT C HARRIS
Law Office of Scott C Harris, Inc
P O BOX 1389
Rancho Santa Fe, CA 92067-1389

OC000000044965791

Date Mailed: 12/15/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Scott C Harris, Rancho Santa Fe, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 11/260,022 10/26/2005 PAT 7,321,785
which is a CON of 10/064,711 08/08/2002 ABN
which claims benefit of 60/310,820 08/08/2001

Foreign Applications

If Required, Foreign Filing License Granted: 02/07/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/017,032**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

APPLICATIONS OF BROADBAND MEDIA AND POSITION SENSING PHONES

Preliminary Class

463

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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P.O. BOX 1389
Rancho Santa Fe, CA 92067-1389

MAILED

AUG 06 2010

OFFICE OF PETITIONS

In re Application of
Scott C. Harris
Application No. 12/017,033
Filed: January 20, 2008
Attorney Docket No. BroadbandC3

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed on July 8, 2010, to accept an unintentionally delayed under 35 U.S.C. § 120 for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The renewed 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 present petition lacks item (1) above.

The Office acknowledges receipt of $1,410 for treatment of the present petition. However, petitioner should note that the amendment filed on November 21, 2009, does not cite the same continuity information as listed in the Application Data Sheet (ADS) filed on the same day. Petitioner should note that the amendment filed on November 21, 2009 states that the present application is a continuation of **12**/260,022, while the ADS filed on November 21, 2009 states that the present application is a continuation of **11**/260,022. Since there is a

discrepancy between the amendment and ADS filed on November 21, 2009, the present petition cannot be granted. Thus, an amendment or supplemental ADS to correct the above matter is required.

Further correspondence with respect to this matter should be addressed as follows:

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Alexandria, VA 22313-1450

By hand: Customer Service Window
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Randolph Building
40l Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Law Office of Scott C Harris, Inc.
P.O. BOX 1389
Rancho Santa Fe, CA 92067-1389

MAILED

DEC 17 2010

OFFICE OF PETITIONS

In re Application of	:	
Scott C. Harris	:	
Application No. 12/017,033	:	DECISION ON PETITION
Filed: January 20, 2008	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BroadbandC3	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed on September 6, 2010, to accept an unintentionally delayed under 35 U.S.C. § 120 for the benefit of priority to 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) 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 applications, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2617 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center at (571) 272-2100.

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
12/017,033	01/20/2008	2617	435	BroadbandC3	18	3

CONFIRMATION NO. 5554

CORRECTED FILING RECEIPT

23844
SCOTT C HARRIS
Law Office of Scott C Harris, Inc
P O BOX 1389
Rancho Santa Fe, CA 92067-1389

OC000000044965804

Date Mailed: 12/15/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Scott C. Harris, Rancho Santa Fe, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 11/260,022 10/26/2005 PAT 7,321,785
which is a CON of 10/064,711 08/08/2002 ABN
which claims benefit of 60/310,820 08/08/2001

Foreign Applications

If Required, Foreign Filing License Granted: 02/07/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/017,033**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

APPLICATIONS OF BROADBAND MEDIA AND POSITION SENSING PHONES

Preliminary Class

455

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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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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HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

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NOV 26 2010

OFFICE OF PETITIONS

In re Application of

Didier TOUBIA, et al
Application No. 12/017,035
Filed: March 28, 2008
Attorney Docket No. 007397.00002

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 27, 2010, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of Applicant Alexander Levin driver's license and passport . Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center at (571) 272-4100.

The application is being forwarded to Technology Center Art Unit 4136 for action on the merits commensurate with this decision.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: TI-64471	Patent Number: 7,667,539
Filing Date (or 371(b) or (f) Date): 01-21-2008	Issue Date: 02/23/2010
First Named Inventor: Shengyuan Li	
Title: LOW-VOLTAGE WIDE-RANGE LINEAR TRANSCONDUCTOR CELL	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature / Wade J. Brady III /	Date August 12, 2010
Name (Print/Typed) Wade J. Brady III	Registration Number 32,080

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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UNITED STATES DEPARTMENT OF COMMERCE
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 08/18/2010

Applicant	: Shengyuan Li	: DECISION ON REQUEST FOR
Patent Number	: 7667539	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 12/017,055	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **45** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/017,093	01/21/2008	Akifumi FUJIEDA	ONKYP0134US	5706

43076 7590 11/10/2010
MARK D. SARALINO (GENERAL)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE, NINETEENTH FLOOR
CLEVELAND, OH 44115-2191

EXAMINER
ROSWELL, MICHAEL

ART UNIT	PAPER NUMBER
2173	

MAIL DATE	DELIVERY MODE
11/10/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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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MARK D. SARALINO (GENERAL)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE, NINETEENTH FLOOR
CLEVELAND OH 44115-2191

In re Application of: Akifumi FUJIEDA
Application No. 12/017093
Filed January 21 2008
Docket No.: ONKYP0134US
For: COMMAND TRANSMITTING APPARATUS

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(a)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(a), filed November 5, 2010 to make the above-identified application special.

The petition is **GRANTED.**

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application is
(a) a Paris Convention application which either
(i) validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more applications filed in the JPO, or
(ii) validly claims priority to a PCT application that contains no priority claims,

Or

(b) a national stage application under the PCT (an application which entered the national stage in the U.S. from a PCT international application after compliance with 35 U.S.C. 371), which PCT application
(i) validly claims priority to an application filed in the JPO, or
(ii) validly claims priority to a PCT application that contains no priority claims, or
(iii) contains no priority claim,

Or

(c) a so-called bypass application filed under 35 U.S.C. 111 (a) which validly claims benefit under 35 U.S.C. 120 to a PCT application, which PCT application
(i) validly claims priority to an application filed in the JPO, or

(ii) validly claims priority to a PCT application that contains no priority claims, or
(iii) contains no priority claim.

Where the JPO application that contains the allowable/patentable claims is not the same application for which priority is claimed in the U.S. application, applicant must identify the relationship between the JPO application that contains the allowable/patentable claims and the JPO priority application claimed in the U.S. 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 obtain a copy from the 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) and
c. A statement that the English translation is accurate;

Effective January 29, 2010, for a period of two years ending on January 28, 2012, the USPTO will accept claims written in dependent form in the U.S. application which are narrower in scope than the allowable/patentable claims in the Japanese application.

(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 claim(s) or
ii. if the allowable/patentable claims(s) are from a "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 above is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the 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 language translation of the JPO Office action from (5)(a)(i)-(ii) above

c. A statement that the English translation is accurate;

Effective January 29, 2010, Applicants may submit a machine translation into the English language of the copy of the latest JPO office action just prior to the "Decision to Grant a Patent" (e.g., the latest "Notification of Reasons for Refusal") from each of the JPO application(s) containing the allowable/patentable claims that are the basis for the PPH request. The machine translation into the English language must be one that is provided by the JPO. That is, the machine translation into the English language cannot be one that is provided by a commercial service. Where a machine translation into the English language of the copy of the latest JPO office action (obtained from the JPO) is submitted, it will not be necessary to include a statement that the English translation is accurate.

(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 the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);

The petition is **GRANTED.**

The request to participate in the PPH pilot program and petition are found to comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Mano Padmanabhan/

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

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GLENN PATENT GROUP
1475 EDISON WAY,
SUITE L
MENLO PARK, CA 94025

MAILED
AUG 24 2011
OFFICE OF PETITIONS

In re Application of	:	
RAYNAUD-RICHARD et al	:	
Application No. 12/017,236	:	DECISION ON REQUEST FOR REFUND
Filed: January 21, 2008	:	
Attorney Docket No. 12/017,236	:	

This is a decision on the Request For Refund filed August 15, 2011.

The request is **GRANTED**.

Applicant files the above request for refund and states that, "On July 5, 2011 Applicant filed a Request for Suspension and inadvertently used the fee code 37 CFR 1.17(g) instead of **37 CFR 1.17(h)**. Applicant respectfully requests a refund of $70.00 for the above-referenced application."

A review of Office finance records for the above application show that the petition fee of $200.00 under fee code 1463 was charged on July 6, 2011 (account date).

In view of the above, the request for refund is granted. Therefore, the correct petition fee of $130.00 under fee code 1464 will be applied towards the above application and the remainder of the petition fee $70.00 ($200.00-$130.00) charged on July 6, 2011 (account date), is being refunded to petitioner's deposit account number as authorized.

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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Paper No.

Jonathan P. O'Brien, Ph.D.
Honigman Miller Schwartz and Cohn LLP
350 East Michigan Avenue
Suite 300
KALAMAZOO MI 49007

MAILED
SEP 12 2011
OFFICE OF PETITIONS

In re Application No. 12/017,274	:	
Cao	:	DECISION ON
Filed: January 21, 2008	:	REQUEST FOR
Attorney Docket No. VAN67 P-391	:	RECONSIDERATION OF
Title: MET FAB AND SCFV FRAGMENTS	:	PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. §1.705(b)," filed on August 29, 2011. Applicant submits that the correct patent term adjustment to be indicated on the patent is seven hundred and seventy-seven (777) days, not four hundred and fifty-nine (459) 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.

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 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 he may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, Applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if Applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then Applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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JUN 2 1 2011

In re Application of MARIA FATIMA GROSSI DE SA, et al. Serial No. 12/017309 Filed: January 21, 2008 For: COMPOSITION AND METHODS FOR MODIFYING GENE EXPRESSION USING THE PROMOTER OF UBIQUITIN CONJUGATING PROTEIN CODING GENE OF COTTON PLANTS	:	NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)

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(b).

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

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 Supervisory Patent Examiner, Anne Marie Grunberg, at (571) 272-0975.

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, for

Jacqueline M. Stone, Director
Technology Center 1600

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
14TH FLOOR
IRVINE, CA 92614

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JUN 2 1 2011

In re Application of MARIA FATIMA GROSSI DE SA, et al. Serial No. 12/017309 Filed: January 21, 2008 For: COMPOSITION AND METHODS FOR MODIFYING GENE EXPRESSION USING THE PROMOTER OF UBIQUITIN CONJUGATING PROTEIN CODING GENE OF COTTON PLANTS	:	NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)

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(b).

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

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 Supervisory Patent Examiner, Anne Marie Grunberg, at (571) 272-0975.

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, for

Jacqueline M. Stone, Director
Technology Center 1600

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
14TH FLOOR
IRVINE, CA 92614

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/017,335	01/21/2008	Huitao Luo	200313342-4	6189

22879 7590 09/07/2010
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

EXAMINER
PERUNGAVOOR, SATHYANARAYA V

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
09/07/2010	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):

JERRY.SHORMA@HP.COM
ipa.mail@hp.com
laura.m.clark@hp.com

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SEP 07 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

In re Application of:
LUO, HUITAO et al.
Application Serial No.: 12/017,335
Filed: January 21, 2008
For: **DETECTING AND CORRECTING REDEYE IN AN IMAGE**

DECISION ON PETITION TO WITHDRAW RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is a decision on the petition filed July 05, 2010, under 37 CFR § 1.181 which is treated as a petition under 37 CFR § 1.144 requesting withdrawal of the restriction requirement issued by the examiner on April 06, 2010; traversed by applicants in a response filed May 05, 2010; and maintained by the examiner in an Office action dated June 07, 2010.

Petitioner contends a *Prima Facie* case for requiring restriction between Groups I and II on April 06, 2010 has not been established. Petitioner alleges that the examiner's restriction between Groups I and II as subcombinations usable together fails to show that Groups I and II do not overlap in scope and in fact actually do overlap in scope. Also argued is that there is no valid reason to divide among the related inventions.

BACKGROUND

A requirement for restriction/election was originally mailed on February 26, 2010 setting forth a restriction between Group I claims 1-27 and Group II claims 52-59 related as subcombinations usable together. Conditionally, an election of species was also required if applicant elected Group I. The species election requirement was made between Species A: Figure 5 (examiner indicated claims 1-16) and Species B: Figure 12 (examiner indicated claims 17-27).

A response to the requirement was timely filed and received in the Patent and Trademark Office (PTO) on March 24, 2010, wherein applicants elected to prosecute Group I without traverse and selected the claims of Species B with traverse. Applicant stated claims 1-27 all read on Species B.

A second restriction requirement was mailed on April 06, 2010 setting forth a new restriction between Group I claims 1-16, Group II claims 17-27 and Group III claims 52-59 related as subcombinations as usable together.

A response to this requirement was timely filed and received in the Patent and trademark Office (PTO) on May 05, 2010, wherein applicants elected to prosecute Group II claims 17-27 with traverse.

A non-final office action was mailed on June 07, 2010. The non-final office action repeated the restriction requirement set forth on April 06, 2010 and indicated the restriction is still deemed proper. Restriction requirement was made final.

Petitioner seeks relief by filing the instant petition requesting that the restriction requirement between groups I and II be set aside and examine the application on the basis of pending claims 1-27.

REGULATIONS AND PRACTICE

MPEP 803 [R-3] Restriction — When Proper

Under the statute>, the claims of< an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § **> 802.01, § 806.06, and § 808.01<) or distinct (MPEP § 806.05 - § *> 806.05(j)<). If the search and examination of **>all the claims in an< application can be made without serious burden, the examiner must examine *>them< on the merits, even though **>they include< claims to independent or distinct inventions.
>I. < CRITERIA FOR RESTRICTION BETWEEN PATENTABLY DISTINCT INVENTIONS
There are two criteria for a proper requirement for restriction between patentably distinct inventions: (A) The inventions must be independent (see MPEP § 802.01, § *>806.06<, § 808.01) or distinct as claimed (see MPEP § 806.05 - § *>806.05(j)<); and (B) There *>would< be a serious burden on the examiner if restriction is >not< required (see MPEP § 803.02, **> § 808<, and § 808.02).

MPEP 806.05(d) [R-5] Subcombinations Usable Together

Two or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, are usually restrictable when the subcombinations do not overlap in scope and are not obvious variants.

MPEP 821.01 [R-3] After Election With Traverse

Where the initial requirement is traversed, it should be reconsidered. If, upon reconsideration, the examiner is still of the opinion that restriction is proper, it should be repeated and made final in the next Office action. (See MPEP § 803.01.) In doing so, the examiner should reply to the

reasons or arguments advanced by applicant in the traverse. Form paragraph 8.25 should be used to make a restriction requirement final.

OPINION

Applicant argues (May 05, 2010) in their traversal of the restriction requirement, Subcombinations Group I and II overlap in scope as evidenced by "the specification explains that, in some embodiments, the segmentation and identification processes respectively performed by the parametric thresholding module 68 and the connectivity-based segmentation module 70 respectively correspond to blocks 114, 122 in FIG. 12, and respectively correspond to blocks 116, 124 in FIG. 12 (see, e.g., page 12, line 4 – page 13, line 6, and page 13, lines 17-23).". Also noted by applicant is that claims 13 and 14 of Group I overlap in scope with independent claims 17 and 27 of Group II and claim 24 of Group II overlaps in scope with claims 1 and 16 of Group I.

The examiner responded (June 07, 2010) by stating "MPEP ~ 806.05(d) requires a combination claim and the applicant has already acknowledged that groups I and II are subcombinations. *See* Remarks page 1, para. 3."

Upon review of MPEP 806.05(d), one of the requirements for restricting claims that are identified as subcombinations usable together is that they must not overlap in scope. Applicant has provided arguments to suggest that the subcombinations usable together do overlap in scope. MPEP 821.01 states "the examiner should reply to the reasons or arguments advanced by the applicant in the traverse". While the examiner acknowledged the arguments by the applicant, clearly the examiner has failed to provide any evidence to suggest the subcombinations usable together do not overlap in scope.

Therefore, the petition to withdraw the restriction requirement between Groups I and II is **GRANTED**.

The restriction requirement between Groups I and II is hereby VACATED. The Application is being returned to the examiner for a new and appropriate action with respect to claims 1-27 and in response to applicant's amendment filed August 13, 2010.

Mark R. Powell

Mark R. Powell, Director
Technology Center 2600
Communications

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MORRISON & FOERSTER, LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of
Christoffer Stromberg, et. al.
Application No. 12/017,386
Filed: January 2, 2008
Attorney Docket No. FLIR AB-004

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 July 28, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that the power of attorney to Robert A. Saltzberg and all the attorneys/agents associated with Customer Number 20872 have been revoked by the assignee of the above application on August 31, 2010. Accordingly, the request to withdraw under 37 CFR §§ 1.36(b) or 10.40 is moot.

All future communications from the Office will be directed to the new correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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Paper No.

KREMBLAS & FOSTER
7632 SLATE RIDGE BOULEVARD
REYNOLDSBURG OH 43068

MAILED

JAN 26 2011

OFFICE OF PETITIONS

In re Application of :
James Rogers : DECISION ON PETITION
Application No. 12/017,391 :
Filed: January 22, 2008 :
Atty Docket No. FRYTX 120 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed December 16, 2010.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 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 effective June 25, 2010 for failure to file a proper reply to the final Office action sent February 24, 2010. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). An amendment, made timely by an extension of time for response within the first month, was filed on June 24, 2010. The examiner determined that this amendment did not place the application in condition for allowance. In addition, the examiner advised that the amendment was not in compliance with 37 CFR 1.121. (See Advisory Action and Notice of Non-Compliant Amendment both sent July 28, 2010). A courtesy Notice of Abandonment was mailed on December 15, 2010.

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 continue examination (RCE), RCE fee, and submission in the form of the amendment filed June 24, 2010, the required statement of unintentional delay and payment of the petition fee set forth in 37 CFR § 1.17(m). No terminal disclaimer is required. However, the instant petition does not satisfy requirement (1) above.

As stated in MPEP 711.03(c),

A reply under 37 CFR 1.113 to a final action must include a request for continued examination (RCE) under 37 CFR 1.114 or cancellation of, or appeal from the rejection of, each claim so rejected. Accordingly, 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:

> (A) a Notice of Appeal and appeal fee;
> (B) an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise prima facie places the application in condition for allowance;
> (C) 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 (see paragraph (d) below); or

(D) 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).

The submission under 1.114 is not acceptable for revival. Petitioner was previously advised that this amendment was not in compliance with 37 CFR 1.121. On petition, petitioner requests that this previously submitted amendment without correction be considered as the submission. It is appropriate to require for revival that an amendment in compliance be submitted.

It is noted that the Notice of Non-compliant Amendment did not set forth a new time period for correction of this after-final amendment. Further, applicant's letter requesting reconsideration of the Notice was filed outside of the extended period for reply (which ended June 24, 2010) without any further extension obtained. Moreover, the letter fails to state any basis for reconsideration of the Advisory Action or the Notice.

In view thereof, the petition must be dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
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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 specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No.

KREMBLAS & FOSTER
7632 SLATE RIDGE BOULEVARD
REYNOLDSBURG OH 43068

MAILED
FEB 17 2011
OFFICE OF PETITIONS

In re Application of :
James Rogers : DECISION ON PETITION
Application No. 12/017,391 :
Filed: January 22, 2008 :
Atty Docket No. FRYTX 120 :
:

This is in response to the RESPONSE TO DECISION ON PETITION filed February 8, 2011.

The petition is **GRANTED**.

The above-identified application became abandoned effective June 25, 2010 for failure to file a timely reply to the final Office action mailed February 24, 2010. A courtesy Notice of Abandonment was mailed on December 15, 2010.

By decision mailed January 26, 2011, the initial PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR §1.137(b) filed December 16, 2010 was dismissed. The petition included a proposed reply in the form of an RCE and the previously-submitted amendment; however, the previously-submitted amendment was found to be non-compliant by the examiner (Advisory Action mailed July 28, 2010; Notice of Non-compliant Amendment mailed July 28, 2010). Thus, it was required that an amendment in compliance be submitted for revival.

In response, the instant renewed petition was timely filed. On renewed petition, petitioner submits a new amendment. This reply is sufficient to satisfy the reply requirement of 37 CFR 1.137(b). Petitioner previously paid the petition fee and made the required statement of unintentional delay. Petitioner has

now met all requirements for revival of this application pursuant to 37 CFR 1.137(b).

Technology Center AU 3656 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE submitted on petition filed December 16, 2010 and amendment submitted on renewed petition filed February 8, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/017,455	01/22/2008	Sun-Young Lee	P46008	6418

8439 7590 09/20/2011
ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

EXAMINER
WILSON, MICHAEL H

ART UNIT	PAPER NUMBER
1786	

NOTIFICATION DATE	DELIVERY MODE
09/20/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

rebushnell@aol.com
mail@rebushnell.com
info@rebushnell.com

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SEP 2 0 2011

Mailed :	:	
In re Application of	:	DECISION ON
Lee et al.	:	PETITION
Serial No. 12/017,455	:	
Filed: January 22, 2008		
For: LIGHT-EMITTING DEVICE		

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on May 23, 2011 to consider the Information Disclosure Statement (IDS) that was filed on December 16, 2009. The Examiner considered all the references on the IDS except for a Korean Office Action issued on April 30, 2009 and a Korean Registration Determination Certificate issued September 30, 2009. The Office Action and Determination Certificate were not in English.

Applicants explained that the relevance of the non-English documents by referencing ATTACHMENT 1(e); along with a reference to an enclosed English language version of the search report.

For non-English documents that are cited, the following must be provided:

(a) A concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, unless a complete translation is provided; and/or

(b) A written English language translation of a non-English language document, or portion thereof, if it is within the possession, custody or control of, or is readily available to any individual designated in 37 CFR 1.56(c).

The English language search report did not reference the two Korean documents and there was no ATTACHMENT 1(e). Applicants at the time of submission did not provide a translation of the documents nor was there an explanation of relevance as it was presently understood by the individual designated in 37 CFR 1.56(c).

DECISION

Accordingly, the petition is **DENIED**.

Karen M. Young, Director
Technology Center 1700
Chemical and Materials Engineering

wk

Robert Bushnell
ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON DC 20006-1004

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HORIZON PATENT GROUP
924 STRATHORN DRIVE
CARY, NC 27519

In re Application of David J. Nagel, et al. Application No. 12/017,588 Filed: January 22, 2008 Attorney Docket No.: SPC-P015	: : : : :	ON PETITION

This is a decision on the petition, filed December 29, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed September 8, 2011. A Notice of Abandonment was mailed on December 22, 2011. On December 29, 2011, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a replacement drawing; (2) the petition fee of $930 and (3) an adequate statement of unintentional delay.

Accordingly, the petition is **GRANTED**.

The application is being referred to the Office of Data Management to oversee the review of the drawing filed on December 29, 2011.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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BARNES & THORNBURG, LLP
11 SOUTH MERIDIAN STREET
INDIANAPOLIS, IN 46204

MAILED

DEC 29 2010

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,825,814
Issue Date: November 2, 2010
Application No. 12/017,605
Filed: January 22, 2008
Patentee(s): David M. Lokhorst, et. al.

This is a decision on the "REQUEST FOR CERTIFICATE OF CORRECTION" filed on November 23, 2010, which is being treated as a petition under 37 CFR 3.81(b)[1], to delete the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

It is noted that the instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Ronald S. Henderson 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.

As authorized, the $130 processing fee for treatment of the present request has been charged to petitioner's deposit account.

Since the present request complies with the requirements of 37 CFR 3.81, 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

[1] *See Official Gazette of June 22, 2004*

UNITED STATES PATENT AND TRADEMARK OFFICE

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KATTEN MUCHIN ROSENMAN LLP
(C/O PATENT ADMINISTRATOR)
2900 K STREET NW, SUITE 200
WASHINGTON DC 20007-5118

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Robert Ivkov, et al.	:	
Application No. 12/017,634	:	DECISION ON PETITION
Filed: January 22, 2008	:	TO WITHDRAW
	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed December 6, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Katten Muchin Rosenman LLP does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **ROBERT IVKOV**
8419 CHURCH LANE DR.
ELLICOTT CITY MD 21043

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SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Mangolini et al.	:	UNDER 37 CFR 1.78(a)(3)
Application No. 12/017,644	:	and
Filed: January 22, 2008	:	DECISION ON PETITION
Atty Docket No. U11.12-0183	:	UNDER 37 CFR 1.78(a)(6)
	:	

This is a decision on the PETITION TO CLAIM BENEFIT UNDER 35 USC. 120, 121 OR 365(c) OF A PRIOR COPENDING NONPROVISIONAL APPLICATION OR INTERNATIONAL APPLICATION DESIGNATING THE UNITED STATES OF AMERICA (37 CFR 1.78(a)(3), to accept unintentionally delayed claims to prior-filed application No. 12/263,616, which is a divisional of application No. 11/155,340, which claims priority to provisional application Nos. 60/581,141 and 60/623,979. Thus, this petition is also properly treated under 37 CFR 1.78(a)(6) for the benefit claim to the provisional applications under 35 U.S.C. 119(e).

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 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)(2)(ii) and 37 CFR 1.78(a)(5)(ii), respectively, and must be filed during the pendency of the nonprovisional application. In addition, the petition under 37 CFR § 1.78(a)(3) and 37 CFR § 1.78(a)(6), respectively, must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i) 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i), respectively, 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 37 CFR 1.78(a)(5)(ii), respectively, 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. The application as filed only included a benefit claim to provisional application No. 60/881,663. The claims for priority set forth on petition were not submitted on filing in the first sentence of the specification or in an application data sheet. The four and sixteen-month periods specified in 37 CFR §§ 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii) have expired. Thus, the instant petition is appropriate. In addition, the petition includes the required statement of unintentional delay. Receipt of the required surcharge is acknowledged.

On petition, a reference to the prior-filed nonprovisional and provisional applications has been included in both an application data sheet and an amendment, as required by 37 CFR 1.78(a)(2)(iii) and (a)(5)(iii). The amendment is unacceptable as it includes an amendment and in an unexecuted supplemental Application Data Sheet.

However, the amendment is not proper as it includes an improper incorporation by reference statement. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (see 35 U.S.C. 132(a)). Accordingly, if an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. 120 after the filing date of the application, the amendment would not be proper. When a benefit claim is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application, unless an incorporation by reference statement of the prior application was presented upon filing of the application. See Dart Indus. v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). No such incorporation by reference was present in this application on filing.

Moreover, the application data sheet (ADS) is also not acceptable. Any ADS filed after the application filing date

must be executed (and must be entitled supplemental ADS). The ADS submitted on petition is not executed.

In view thereof, the petition must be dismissed.

Further correspondence with respect to this matter should be addressed as follows:

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Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MINNEAPOLIS MN 55402

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Mangolini et al.	:	UNDER 37 CFR 1.78(a)(3)
Application No. 12/017,644	:	and
Filed: January 22, 2008	:	DECISION ON PETITION
Atty Docket No. U11.12-0183	:	UNDER 37 CFR 1.78(a)(6)
	:	

This is in response to the response to decision on the PETITION TO CLAIM BENEFIT UNDER 35 USC. 120, 121 OR 365(c) OF A PRIOR COPENDING NONPROVISIONAL APPLICATION OR INTERNATIONAL APPLICATION DESIGNATING THE UNITED STATES OF AMERICA (37 CFR 1.78(a)(3), to accept unintentionally delayed claims to prior-filed application No. 12/263,616, which is a divisional of application No. 11/155,340, which claims priority to provisional application Nos. 60/581,141 and 60/623,979, filed January 18, 2011. This decision is made in light of the supplement to petition filed March 10, 2011. This supplement included an amendment and supplemental ADS deleting the reference to application No. 12/263,616[1].

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 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)(2)(ii) and 37 CFR 1.78(a)(5)(ii), respectively, and must be filed during the pendency of the nonprovisional application. In addition, the

[1] As the '616 application is a subsequently-filed application, filed November 2008, priority to it cannot be claimed from the instant application filed January 2008. Removing this claim from the petition is proper and does not affect continuity as application No. 11/155,340 which applicant next claimed in the chain was filed June 17, 2005 and did not issue as a patent until November 2008.

petition under 37 CFR § 1.78(a)(3) and 37 CFR § 1.78(a)(6), respectively, must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i) 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i), respectively, 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 37 CFR 1.78(a)(5)(ii), respectively, and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

By decision mailed January 3, 2011, the initial petition filed September 27, 2010 was dismissed. The requirements of 37 CFR 1.78(a)(3) and (a)(6) had been met, except the reference to the prior-filed nonprovisional and provisional applications included in both an application data sheet and an amendment was found unacceptable. The amendment included an improper incorporation by reference statement. The application data sheet (ADS) was not executed (and was not entitled supplemental ADS).

On January 18, 2011, applicant submitted a corrected amendment which deleted the incorporation by reference statement, as well as, an executed supplemental application data sheet. Unfortunately, a further review of the amendment and supplemental ADS revealed that they included an improper claim to subsequently-filed application No. 12/263,616. On March 10, 2011, applicant submitted a corrected amendment, which did not include this improper claim. The amendment filed March 10, 2011 is acceptable.

Thus, it is concluded that all outstanding requirements have been met. The petitions under 37 CFR 1.78 are now grantable.

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. § 120 and 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and (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 application, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and §§119(e) and 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) 272-3219. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1712 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) of the prior-filed applications as set forth in the amendment filed March 10, 2011, and to consider applicant's response to the final Office action filed March 18, 2011.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ENCLOSED: Corrected Filing Receipt

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
12/017,644	01/22/2008	1712	675	U11.12-0183	27	2

CONFIRMATION NO. 6734

CORRECTED FILING RECEIPT

OC000000046662943

27367
WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

Date Mailed: 03/18/2011

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)

Lorenzo Mangolini, Minneapolis, MN;
Uwe Kortshagen, Roseville, MN;
Rebecca J. Anthony, Minneapolis, MN;
David Jurbergs, Austin, TX;
Xuegeng Li, Sunnyvale, CA;
Elena Rogojina, Los Altos, CA;

Power of Attorney: The patent practitioners associated with Customer Number 27367

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/881,663 01/22/2007
and is a CIP of 11/155,340 06/17/2005 PAT 7,446,335
which claims benefit of 60/581,141 06/18/2004
and claims benefit of 60/623,979 11/01/2004

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: 02/12/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/017,644**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

NANOPARTICLES WTIH GRAFTED ORGANIC MOLECULES

Preliminary Class

427

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MANCHESTER, NH 03105-0326

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of
Daniel B. Parker
Application No. 12/017,728
Filed: January 22, 2008
Attorney Docket No. 80520

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed May 21, 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 December 23, 2008. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 4, 2010 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 3745 for examination in due course.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
12/017,728	01/22/2008	Daniel B. Parker	80520

CONFIRMATION NO. 6876

NONPUBLICATION RESCISSION LETTER

25702
SCOTT C. RAND, ESQ.
MCLANE, GRAF, RAULERSON & MIDDLETON, PA
900 ELM STREET, P.O. BOX 326
MANCHESTER, NH 03105-0326

OC000000042817398

Date Mailed: 08/04/2010

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 11/04/2010.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/017,807	01/22/2008	Nobuyoshi Enomoto	008312-0367672	7022

7590 09/02/2010
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER
AHMED, SAMIR ANWAR

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
09/02/2010	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.

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

NOV 10 2011

OFFICE OF PETITIONS

In re Patent No. 8,003,761	:
Issued: August 23, 2011	:DECISION ON APPLICATION
Application No. 12/017,827	: FOR PATENT TERM ADJUSTMENT
Filed: April 15, 2003	:
Attorney Docket No. 24525-0057001 /	:
P4630R1-US	:

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on October 21, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted from 0 to 86 days.

The request is **DISMISSED**.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On August 23, 2011, the above-identified application matured into U.S. Patent No. 8,003,261 with a patent term adjustment of 0 days. On October 21, 2011, Patentees submitted the instant application. Patentees disclose that the patent term adjustment of 0 days indicated on the front of the patent is incorrect because "Patentees filed an Information Disclosure Statement on April 22, 2010 and on June 4, 2010, subsequent to a reply filed on April 13, 2010. Patentees were accorded 0 days delay for a supplemental response. In good faith and candor, Patentees submit that the supplemental response should have been accorded a total Applicant Delay of 52 days for delay from April 13, 2010 to June 4, 2010. See 37 C.F.R. § 1.704(c)(8).
In view of the periods of Applicant Delay detailed above, the total Applicant Delay for this patent should be calculated as 52 days (i.e., the sum of 9 days and 43 days)."

Patentee also maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on April 8, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no

continued examination took place during the 138 day period from April 8, 2011 (the mailing date of the Notice of Allowance) until August 23, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 138 days and be increased from 0 to 138 days. Patentee concludes that the correct patent term adjustment is 86 days (the sum of 0 days of "A delay" and 138 days of "B delay" minus 52 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS

37 CFR 1.704 (c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Applicant's arguments have been considered. The Information Disclosure Statements filed April 22, 2010 and June 4, 2010 were supplemental to the filing of the response filed April 13, 2010. In this instance, the filing of the Information Disclosure Statements on April 22, 2010 and June 4, 2010 are considered a failure to engage under 1.704(c)(8). The Information Disclosure Statements were not expressly requested by the examiner nor did they include a 1.704(d) statement.

Pursuant to 37 CFR 1.704(c)(8) a period of reduction of 52 days counting the number of days in the period beginning April 13, 2010 and ending on the date of filing of the last supplemental paper, the IDS filed June 4, 2010. Accordingly, a period of reduction of 52 days is being entered.

As it relates to the calculation of "B delay, Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 0 days based on the application having been filed under 35 U.S.C. 111(a) on January 22, 2008 and the patent not having issued as of the day after the three year date, January 22, 2011, and a request for continued examination under 132(b) having been filed on April 13, 2010. In other words, the 138-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However,

the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 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

[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. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C., September 30, 2008),

because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

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.

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[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has

previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on April 13, 2010, and the patent issued by virtue of that request on August 23, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on April 13, 2010 and ending on August 23, 2011 is not included in calculating Office delay.

[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.

CONCLUSION

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance remains 0 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 decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

/Patricia Faison-Ball/

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FISH & RICHARDSON P.C. (BO)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 8,003,761
Issued: August 23, 2011
Application No. 12/017,827
Filed: April 15, 2003
Attorney Docket No. 24525-0057001 / P4630R1-US

:DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the request for reconsideration filed December 9, 2011, pursuant to 37 CFR §1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected from from 127 to 254 days.

This petition is hereby **DENIED**. This decision is a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. *See,* MPEP 1002.02.

The patent term adjustment indicated in the previous decision mailed November 10, 2011 is properly indicated.

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 April 8, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 138 day period from April 8, 2011 (the mailing date of the Notice of Allowance) until August 23, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 138 days and be increased from 0 to 138 days.

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Applicant's arguments have been considered.

The 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 January 22, 2008 and the patent not having issued as of the day after the three year date, January 22, 2011, and a request for continued examination under 132(b) having been filed on April 13, 2010. In other words, the 138-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application

under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept.

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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.

18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the

day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

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[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

In this instance, a request for continued examination was filed on April 13, 2010, and the patent issued by virtue of that request on August 23, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on April 13, 2010 and ending on August 23, 2011 is not included in calculating Office delay.

CONCLUSION

Accordingly, the decision on application for patent term adjustment has been reconsidered and the request for additional patent term is DENIED.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
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	12017858
Filing Date	22-Jan-2008
First Named Inventor	Ronald BLUM
Art Unit	3738
Examiner Name	TIFFANY SHIPMON
Attorney Docket Number	027798-000210US
Title	FLEXIBLE ELECTRO-ACTIVE LENS

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 20350

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	e-Vision LLC
Address	5241 Valleypark Drive
City	Roanoke
State	VA
Postal Code	24019
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/John McGroarty/
Name	John McGroarty
Registration Number	41186

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : May 10,2011

In re Application of :

Ronald BLUM

Application No : 12017858

Filed : 22-Jan-2008

Attorney Docket No : 027798-000210US

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed May 10,2011

The request is **APPROVED.**

The request was signed by John McGroarty (registration no. 41186) on behalf of all attorneys/agents associated with Customer Number 20350 . All attorneys/agents associated with Cusotmer Number 20350 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name	e-Vision LLC
Name2	
Address 1	5241 Valleypark Drive
Address 2	
City	Roanoke
State	VA
Postal Code	24019
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110925

DATE : September 26, 2011

TO SPE OF : ART UNIT 3641

SUBJECT : Request for Certificate of Correction on Patent No.: 7,946,073

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:

/MICHAEL CARONE/
Supervisory Patent Examiner.Art Unit 3641

30 AUG 2010

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CHOATE, HALL & STEWART LLP
SLOAN-KETTERING INSTITUTE FOR CANCER RESEARCH
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

In re Application of DANISHEFSKY et al	:	
U.S. Application No.: 12/017,951	:	
PCT Application No.: PCT/US2006/028155	:	
Int. Filing Date: 21 July 2006	:	DECISION
Priority Date Claimed: 22 July 2005	:	
Attorney Docket No.: 2003080-0265 (SK-1268-US)	:	
For: SYNTHESIS OF SCABRONINES AND	:	
ANALOGUES THEREOF	:	

This is in response to applicant's renewed petition under 37 CFR 1.181 filed 13 August 2009.

BACKGROUND

On 21 July 2006, applicant filed international application PCT/US2006/028155, which claimed priority of an earlier United States application filed 22 July 2005. The thirty-month period for paying the basic national fee in the United States expired on 22 January 2008.

On 22 January 2008, applicant filed application papers via the EFS-Web electronic filing system of the USPTO ("EFS-Web"). The submission was accompanied by, *inter alia*, a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Submission Under 35 U.S.C. 371 (Form PTO-1390).

On 05 March 2008, this Office mailed an official filing receipt.

On 08 October 2008, applicant filed a petition under 37 CFR 1.181.

On 16 June 2009, this Office mailed a decision dismissing the 08 October 2008 petition.

On 13 August 2009, applicant filed the instant renewed petition under 37 CFR 1.181.

DISCUSSION

The renewed petition states that because use of the EFS-Web filing system is not required for a filing date, an EFS-Web menu input should not be considered an "instruction" to the Office. However, the selection in EFS-Web of the type of application the user desires to file is certainly an instruction, and such instruction is essential in determining the data prompts of the EFS-Web user interface and in initializing the application type in the Office's electronic systems. Furthermore, it is noted that a transmittal letter, application data sheet (ADS), and several other types of papers which are not required for a filing date can nevertheless contain instructions to the Office regarding the type of application that is being filed. Thus, the fact that the use of EFS-Web is not required for a filing date is not dispositive, nor is the number of instructions that request treatment under 35 U.S.C. 371. As stated in MPEP 1893.03(a) "[I]f 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)." (Emphasis added.)

The petition states that a petition under 37 CFR 1.78(a) is not required for the present application to obtain priority to international application number PCT/US2006/028155 and U.S. provisional application number 60/701,698 because valid priority claims were made in the ADS filed on 22 January 2008. However, the ADS improperly states that the present application is a 371 of international application number PCT/US2006/028155. In order for the present application to claim the benefit of international application number PCT/US2006/028155, a proper reference specifying the relationship of the present application to the international application must be present in the first paragraph of the specification or an ADS within four months of the filing date of the present application. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." See MPEP Section 201.11, Rev. 5, August 2006, Reference to Prior Application(s). Although the supplemental ADS filed with the renewed petition contains a proper reference to the international application, such reference was not filed within the time period set forth in 37 CFR 1.78(a)(2)(ii). Accordingly, a petition under 37 CFR 1.78(a)(3) would be required to add a benefit claim under 35 U.S.C. 120 and 365(c) to international application number PCT/US2006/028155.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter 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

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHOATE, HALL & STEWART LLP/MSKCC
SLOAN-KETTERING INSTITUTE FOR CANCER RESEARCH
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

MAILED
OCT 08 2010
PCT LEGAL ADMINISTRATION

In re Application of DANISHEFSKY et al Application No.: 12/017,951 Filing Date: January 22, 2008 Attorney Docket No.: 2003080-XXX (SK-1268-US)	: : : : : :	DECISION ON PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 16, 2010, 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 supplemental application data sheet filed on August 13, 2009.

The petition is **GRANTED**.

The present 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 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 late claim for 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 37 CFR 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 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 application data sheet as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 120 to the prior-filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed 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 this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Bryan Lin at (571)272-3303. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1628 for appropriate action.

BryanLin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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GREENBERG TRAURIG (LV)
3773 Howard Hughes Parkway
Suite 400 North
Las Vegas NV 89169

MAILED
MAY 03 2011
OFFICE OF PETITIONS

In re Application of	:	
Joseph M. Mogar et al.	:	
Application No. 12/018,020	:	DECISION ON PETITION
Filed: January 22, 2008	:	
Attorney Docket No. 108772.000001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 28, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, May 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 August 15, 2010. A Notice of Abandonment was mailed on December 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 RCE (Request for Continued Examination, with the required fee of $405, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3679 for appropriate action by the Examiner in the normal course of business on the reply received February 28, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JONES & SMITH LLP
2777 ALLEN PARKWAY
SUITE 1000
HOUSTON TX 77019

MAILED
DEC 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Jeffrey C. Dawson	:	
Application No. 12/018,050	:	ON PETITION
Filed: January 22, 2008	:	
Attorney Docket No. 020569-17001	:	

This is in response to petition to revive under 37 CFR 1.137(b), filed September 23, 2011.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action, mailed October 15, 2010, which set a shortened statutory period for reply of three months. Applicant filed an RCE on April 19, 2011, made timely by obtaining a three month extension of time and by including a Certificate of Mailing dated April 14, 2011. However, the RCE did not include a submission. As such, the application became abandoned on April 16, 2011. The Office mailed a Notice of Abandonment on June 10, 2011.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of a submission (an Amendment) to accompany the previously filed RCE.

The application is being forwarded to Group Art Unit 3676 for consideration of the RCE, filed April 19, 2011, and its submission (an Amendment), filed September 23, 2011.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 09/08/11

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 12018080 Patent No.: 7888462

CofC mailroom date: 08/26/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: **Should the changes in the claims be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

Cecilia Tsang Art Unit 1654

Doc Code: PET.GREEN
Document Description: Petition for Green Tech Pilot

PTO/SB/420 (12-09)
Approved for use through 05/31/2010. OMB 0651-0062
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION TO MAKE SPECIAL UNDER THE GREEN TECHNOLOGY PILOT PROGRAM

Attorney Docket Number: CL3243USDIV	Application Number (if known): 12/018216	Filing date: January 23, 2008

First Named Inventor: GAIL K. DONALDSON

Title: FERMENTIVE PRODUCTION OF FOUR CARBON ALCOHOLS

APPLICANT HEREBY REQUESTS TO PARTICIPATE IN THE GREEN TECHNOLOGY PILOT PROGRAM FOR THE ABOVE-IDENTIFIED APPLICATION. See Instruction Sheet on page 2.

This petition must be timely filed electronically using the USPTO electronic filing system, EFS-Web.

1. By filing this petition:

   Applicant is requesting early publication: Applicant hereby requests early publication under 37 CFR 1.219 and the publication fee set forth in 37 CFR 1.18(d) accompanies this request. Applicant hereby rescinds under 37 CFR 1.213(b) any previous filed request that the above-identified application not be published under 35 U.S.C. 122(b).

   If the application has been published, the petition must still be accompanied by the publication fee set forth in 37 CFR 1.18(d) and a statement that the application has been published.

2. By filing this petition: applicant is agreeing to make an election without traverse in a telephonic interview and elect an invention that meets the eligibility requirement and classification requirement set forth in the notice entitled "Pilot Program for Green Technologies Including Greenhouse Gas Reduction" that was published in the Federal Register if the Office determines that the claims are not obviously directed to a single invention.

3. This request is accompanied by statements of special status for the eligibility requirement.

4. The application contains no more than three (3) independent claims and twenty (20) total claims.

5. The application does not contain any multiple dependent claims.

6. Other attachments: (1) Preliminary Amendment and (2) Statement of Special Status and Request To Participate

Signature /Christine M. Lhulier/	Date November 3, 2010
Name (Print/Typed) Christine M. Lhulier	Registration Number 54,269

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.*

*Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for Petition to Make Special Under the Green Technology Pilot Program

(Not to be Submitted to the USPTO)

The following is a summary of the requirements (for more information see notice "Pilot Program for Green Technologies Including Greenhouse Gas Reduction" available on the USPTO web site at http://www.uspto.gov/web/offices/pac/dapp/ogsheet.html):

(1) The application must be a non-reissue, non-provisional utility application filed under 35 U.S.C. 111(a), or an international application that has entered the national stage in compliance with 35 U.S.C. 371. The application must be previously filed before the publication date of the notice cited above. Reexamination proceedings are excluded from this pilot program.

(2) The application must be classified in one of the U.S. classifications listed in section VI of the notice cited above at the time of examination.

(3) The application must contain three or fewer independent claims and twenty or fewer total claims. The application must not contain any multiple dependent claims. For an application that contains more than three independent claims or twenty total claims, or multiple dependent claims, applicant must file a preliminary amendment in compliance with 37 CFR 1.121 to cancel the excess claims and/or the multiple dependent claims at the time the petition to make special is filed.

(4) The claims must be directed to a single invention that materially enhances the quality of the environment, or that materially contributes to: (1) the discovery or development of renewable energy resources; (2) the more efficient utilization and conservation of energy resources; or (3) green house gas emission reduction (see the eligibility requirements of sections II and III of the notice cited above). The petition must include a statement that, if the USPTO determines that the claims are directed to multiple inventions (e.g., in a restriction requirement), applicant will agree to make an election without traverse in a telephonic interview, and elect an invention that meets the eligibility requirements in section II or III of the notice cited above and is classified in one of the U.S. classifications listed in section VI of the notice cited above.

(5) The petition to make special must be timely filed electronically using the USPTO electronic filing system, EFS-Web, and selecting the document description of "Petition for Green Tech Pilot" on the EFS-Web screen. Applicant should use form PTO/SB/420, which will be available as a Portable Document Format (PDF) fillable form in EFS-Web and on the USPTO Web site.

(6) The petition to make special must be filed at least one day prior to the date that a first Office action (which may be an Office action containing only a restriction requirement) appears in the Patent Application Information Retrieval (PAIR) system. Applicant may check the status of the application using PAIR.

(7) The petition to make special must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and the publication fee set forth in 37 CFR 1.18(d).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE APPLICATION OF:

GAIL K. DONALDSON ET. AL.

CASE NO.: CL3243US NA DIV | APPLICATION NO.: 12/018216

CONFIRMATION NO.: 7754 | GROUP ART UNIT: 1652

EXAMINER: FRONDA, C (OF PARENT CASE) | FILED: OCTOBER 25, 2006

FOR: FERMENTIVE PRODUCTION OF FOUR CARBON ALCOHOLS

PETITION TO MAKE SPECIAL

STATEMENT OF SPECIAL STATUS AND REQUEST TO PARTICIPATE IN THE GREEN TECHNOLOGY PILOT PROGRAM

VIA EFS-WEB

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir,

Submitted herewith is the completed USPTO form PTO/SB/420 and a Petition to Make Special pursuant to the Federal Register Notice of December 8, 2009, vol. 74, No 234, pages 64666-64668, to participate in the Green Technology Pilot Program as described in said Notice.

The above-referenced application has not been published, therefore, in accordance with the requirements for the Pilot Program, please charge Deposit Account No. 04-1928 (E.I. du Pont de Nemours and Company) for the publication fee set forth in 37 CFR 1.18(d).

Applicants submit that the application is directed to a single invention that relates to the methods of producing isobutanol for fuel blends which increase the renewable content of fuel blends and as such, the claimed invention materially contributes to the discovery or development of renewable energy resources,

enhances the quality of the environment and results in a more efficient utilization and conservation of energy resources.

If participation in the Green Technology Pilot Program is granted, Applicants hereby agree to make an election without traverse in a telephonic interview and elect an invention that meets the eligibility requirement and classification requirement set forth in the notice entitled "Pilot Program for Green Technologies Including Greenhouse Gas Reduction" that was published in the Federal Register if the Office determines that the claims are not obviously directed to a single invention.

Filed concurrently with this petition is a Preliminary Amendment in compliance with 37 CFR 1.121. Upon entry of the amendment, the application will contain no more than three independent claims and twenty total claims and will not contain any multiple dependent claims.

Respectfully submitted,

/Christine M. Lhulier/

CHRISTINE M. LHULIER
ATTORNEY FOR APPLICANTS
Registration No.: 54,269
Telephone: 302-695-2739
Facsimile: 302-355-3982

Dated: November 3, 2010

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.
12/018,216	01/23/2008	GAIL K. DONALDSON	CL3243USDIV	7754

23906 7590 12/08/2010
E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER

ART UNIT	PAPER NUMBER
1652	

NOTIFICATION DATE	DELIVERY MODE
12/08/2010	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):

PTO-Legal.PRC@usa.dupont.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DEC 0 8 2010

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON DE 19805

In re Application of	:	
DONALDSON, Gail et al.	:	DECISION ON PETITION
Application No. 12/018216	:	TO MAKE SPECIAL UNDER
Filed: January 23, 2008	:	THE GREEN TECHNOLOGY
Attorney Docket No. CL3243USDIV	:	PILOT PROGRAM

This is a decision on the petition under 37 CFR 1.102, filed November 3rd, 2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth in 74 Federal Register Notice 64666 (December 8, 2009) and amended by 75 Federal Register Notice 28554 (May 21, 2010) and 75 Federal Register Notice 69049 (November 10, 2010).

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications.

In order to qualify for special status, the following requirements must be met. 1) The application must have no more than 3 independent claims and no more than 20 total claims. 2) The application must not contain any multiple dependent claims. 3) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 4) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 5) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 6) The petition to make special must be filed electronically. 7) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 8) The petition must be accompanied by a

request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The instant petition complies with items 1 – 8 above. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Manjunath Rao at 571-272-0939.

The application is being forwarded to the Technology Center Art Unit 1652 for action on the merits commensurate with this decision.

/Manjunath Rao/

Manjunath Rao
Supervisory Patent Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas TX 75219

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
John E. McLoughlin et al.	:	
Application No. 12/018,424	:	DECISION ON PETITION
Filed: January 23, 2008	:	TO WITHDRAW
Attorney Docket No. 39789.19	:	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 January 11, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has ownership in this application, then a current Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be provided with a renewed request.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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AUG 13 2010

ROBERT PLOTKIN, PC
15 New England Executive Office Park
Burlington MA 01803

In re application of:	:	**DECISION ON REQUEST TO**
Fritsch, Juergen, et al.	:	**PARTICIPATE IN PATENT**
Application No.: 12/018,453	:	**PROSECUTION HIGHWAY**
Filed: January 23, 2008	:	**PROGRAM AND PETITION**
For: MONITORING USER INTERATIONS	:	**TO MAKE SPECIAL UNDER**
WITH A DOCUMENT EDITING SYSTEM	:	**37 C.F.R. 1.102(d)**

This is a decision on the renewed request to participate in the pilot Patent Prosecution Highway (PPH) program between the USPTO and the KIPO based on PCT treaty work products and the petition under 37 C.F.R. § 1.102(d), filed July 23, 2010, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in this PPH pilot program and petition to make special require (see 1355 OG 319):

(1) The relationship between the corresponding U.S. application for which participation in the PCT-PPH pilot program is requested and the PCT application satisfies one of the following requirements:

(a) The U.S. application is a national stage entry of the corresponding PCT application.

(b) The U.S. application is a national application which forms the basis for the priority claim in the corresponding PCT application.

(c) The U.S. application is a national stage entry of another PCT application (which can be filed in any competent receiving office) which claims priority to the corresponding PCT application.

(d) The U.S. application is a national application claiming foreign/domestic priority to the corresponding PCT application.

(e) The U.S. application is a continuing application (continuation, divisional, or continuation-in-part) of the U.S. application which satisfies one of the above (a) through (d) scenarios.

2) The latest work product in the international phase of the PCT application corresponding to the U.S. application, namely, the WO/ISA, or the WO/IPEA, or the IPER, indicates at least one claim in the PCT application has novelty, inventive step and industrial applicability. In case any observation is described in Box VIII of the WO/ISA, WO/IPEA, or IPER which forms the basis for the PCT-PPH request, applicant must identify and explain why the claim(s) is/are not subject to any observation described in Box VIII irrespective of whether an amendment is submitted to correct the observation described in Box VIII. The U.S. application will not be eligible to participate in the PCT-PPH pilot program if applicant does not identify and explain why the claim(s) is/are not subject to the observation described in Box VIII.

(3) Claim Correspondence:

(a) All of the claims in each U.S. application for which a request for participation in the PCT-PPH pilot program is made must sufficiently correspond to or be amended to sufficiently correspond to one or more of those claims indicated as having novelty, inventive step and industrial applicability and be free of any observation described in Box VIII in the latest work product of the corresponding PCT application.

(b) Claims are considered to "sufficiently correspond" where, accounting for differences due to translations and claim format requirements, the claims in the U.S. application are of the same or similar scope as the claims indicated as having novelty, inventive step and industrial applicability and free of any observation described in Box VIII in the latest work product of the corresponding PCT application, or the claims in the U.S. application are narrower in scope than the claims indicated as having novelty, inventive step and industrial applicability and free of any observation described in Box VIII in the latest work product of the corresponding PCT application.

(c) In this regard, a claim that is narrower in scope occurs when a claim indicated as having novelty, inventive step and industrial applicability and free of any observation described in Box VIII in the latest work product of the corresponding PCT application is amended to be further limited by an additional feature that is supported in the written description of the U.S. application. The claim(s) with the narrower scope must be written in dependent form in the U.S. application for which participation in the PCT-PPH pilot program is requested.

(4) Substantive examination of the U.S. application for which participation in the PCT-PPH pilot program is requested has not begun.

(5) Applicant must file a request for participation in the PCT-PPH pilot program and a request that the U.S. application be advanced out of turn for examination by order of the Director to expedite the business of the Office under 37 CFR 1.102(a).

(6) Unless already filed in the U.S. application for which participation in the PCT-PPH pilot program is requested, applicant must submit a copy of the latest international work product, WO/ISA, or WO/IPEA or IPER, which indicated that the claim(s) has/have novelty, inventive step and industrial applicability along with an English translation thereof if the copy of the latest international work product is not in the English language. A statement that the English translation is accurate is not required. Where the required documents have been previously filed in the U.S. application, applicant may simply refer to these documents and indicate in the request for participation in the PCT-PPH pilot program when these documents were previously filed in the U.S. application. Where the U.S. application and the corresponding PCT application satisfy the relationship noted in (1)(a) above, applicant need not submit a copy of the latest international work product along with an English translation thereof since a copy of these documents is already contained in the file wrapper of the U.S. application.

(7) Unless already filed in the U.S. application for which participation in the PCT-PPH pilot program is requested, applicant must submit a copy of the claims from the corresponding PCT application which were indicated as having novelty, inventive step and industrial applicability in the latest work product of the PCT application along with an English translation thereof and a statement that the English translation is accurate if the claims are not in the English language. Where the required documents have been previously filed in the U.S. application, applicant may simply refer to these documents and indicate in the request for participation in the PCT-PPH pilot program when these documents were previously filed in the U.S. application. If the claims in the U.S. application for which participation in the PCT-PPH pilot program is requested are identical to the claims from the corresponding PCT application, and are in the English language, applicant may just indicate such in the PCT-PPH request and it will not be necessary for applicant to submit a copy of the claims from the corresponding PCT application.

(8) Applicant is required to submit a claims correspondence table in English. The claims correspondence table must indicate how all the claims in the U.S. application sufficiently correspond to the claims indicated as having novelty, inventive step and industrial applicability in the latest international work product.

(9) Applicant must submit an information disclosure statement (IDS) listing the documents cited in the international work products (ISR, WO/ISA, WO/IPEA, IPER) of the PCT application corresponding to the U.S. application for which participation in the PCT-PPH pilot program is requested (unless such an IDS has already been filed in the U.S. application, in which case applicant may simply refer to the previously filed

IDS and indicate in the request for participation in the PCT-PPH pilot program when the IDS was previously filed in the U.S. application). Applicant must submit copies of all the documents cited in the international work products of the PCT application corresponding to the U.S. application (unless the copies have already been filed in the U.S. application, in which case applicant may simply refer to the previously filed copies of the documents and indicate in the request for participation in the PCT-PPH pilot program when the copies were previously filed in the U.S. application) except U.S. patents or U.S. patent application publications.

(10) The request for participation in the PCT-PPH pilot program and all the supporting documents must be submitted to the USPTO via EFS-Web and indexed with the following document description: "Petition to make special under PCT-Patent Pros Hwy."

In light of the petition, and corresponding preliminary amendment and remarks, filed July 23, 2010, the request to participate in the PPH program complies with the above requirements and 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 Robert Weinhardt, Business Practice Specialist, at (571) 272-6633.

All other queries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system or the examiner of record in the application.

Robert Weinhardt
Business Practice Specialist
Technology Center 3600

RW/8/12/10

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15TH STREET, N.W.
WASHINGTON, D.C. 20005

MAILED
SEP 22 2010
OFFICE OF PETITIONS

Applicant: Hyun Yong Kim
Appl. No.: 12/018,487
Filing Date: January 23, 2008
Title: A HIGH TEMPERATURE REFORMER
Attorney Docket: 58626.00003.DIVI
Pub. No.: US 2009/0293360 A1
Pub. Date: December 3, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on January 5, 2010 for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors wherein the preliminary filed with the application on January 23, 2008 was not included in the publication.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error noted by requestor with respect to the preliminary amendment is not an Office error. The patent application publication does not include a mistake regarding the failure to include the preliminary amendment to the specification because patent application publications are not required to include preliminary amendments. See 37 CFR 1.215(a). The "failure to include an amendment is not an Office error." See MPEP 1130(b). The publication accurately reflected the specification as filed.

Since 1997, the Office has encouraged applicants to file patent applications under 35 U.S.C. 111(a), especially continuation and divisional applications, without preliminary amendments by

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

including any desired changes as part of the specification and drawings of the new application. In order to have a patent application publication of a continuation or divisional application contain only a desired set of claims, rather than the set of claims in the prior application, the Office strongly recommended that the continuation or divisional application be filed under 37 CFR 1.53(b) with a new specification containing only the desired set of claims.

The requirements for inclusion of an amendment in a patent application publication are set forth in 37 C.F.R. § 1.215. § 1.215(a) states that the publication may be based upon amendments to the specification that are reflected in a substitute specification, provided that such substitute specification is submitted before technical preparations for publication have begun, generally four months before the projected date of publication. (emphasis added) § 1.215(c) states that applicant may file an amended copy of the application for publication purposes, but such amendments, including a substitute specification, must be submitted in compliance with the Office electronic filing system requirements, and within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

A "Quick Start Guide" for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/patents/process/file/efs/guidance/index.jsp
OR
http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication".

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PAUL, HASTINGS, JANOFSKY & WALKER, LLP
875 15th Street, NW
Washington, DC 20005

MAILED

JUN 15 2011

OFFICE OF PETITIONS

In re Application of	:	
Hyun Yong Kim	:	
Application No. 12/018,487	:	DECISION ON PETITION
Filed: January 23, 2008	:	TO WITHDRAW FROM
Attorney Docket No. 58626.00003.DIV1	:	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 May 23, 2011.

The request is **APPROVED**.

The request was signed by Hyun Yong Klm on behalf of himself and all attorneys/agents associated with Customer Number 36183. Therefore, Hyun Yong Klm and all the attorneys/agents associated with Customer Number 36183 have been withdrawn.

Applicant is reminded that there are no attorneys/agents of record at this time.

All future communications from the Office will be directed to the address listed below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Hyun Yong Kim
449-6 Pyeongchang-Dong
Jongro-Ku, Seoul 110848
KOREA

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
12/018,487	01/23/2008	Hyun Yong Kim	58626.00003.DIV1

CONFIRMATION NO. 8217

POWER OF ATTORNEY NOTICE

36183
PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15th Street, NW
Washington, DC 20005

OC000000048139700

Date Mailed: 06/10/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/23/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amsmith/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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): 12/018,493	Patent Number (if applicable):
First Named Inventor: Takahiro SUZUKI et al.	Title of Invention: SEMICONDUCTOR MEMORY DEVICE WHICH INCLUDES MEMORY 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.

   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 *Surinder Sachar*	Date 3-24-11
Name (Print/Typed) Surinder Sachar	Practitioner Registration Number 34,423

***Note**: Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.*

☐ *Total of 1 forms are submitted.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

APR 06 2011

OFFICE OF PETITIONS

In re Application of	:	
Suzuki et al.	:	
Application No. 12/018,493	:	DECISION ON PETITION
Filed: January 23, 2008	:	
Attorney Docket No. 321073US2S	:	

This is a decision on the request filed March 24, 2011, seeking relief under the provisions of an announcement by the Under Secretary and Director of the United States Patent and Trademark Office on March 17, 2011, http://www.uspto.gov/patents/announce/japan_relief_2011mar17.pdf, providing relief to inventors and patent owners in areas affected by the earthquake and resulting tsunami of March 11, 2011.

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on December 27, 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 2185 for re-mailing the Office action of December 27, 2010. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED
SEP 22 2011
OFFICE OF PETITIONS

HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

In re Application of	:	
Enrico HERZ et al.	:	ON PETITION
Application No. 12/018,506	:	
Filed: January 23, 2008	:	
Atty. Docket No.: 2642.090	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 13, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Fee(s) Due mailed April 14, 2011 (Notice), which set a statutory period for reply of three (3) months. The application became abandoned July 15, 2011. A Notice of Abandonment was mailed July 28, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of payment of the issue and publication fees in accordance with the Notice mailed April 14, 2011, (2) a petition fee of $1620, and (3) a statement of unintentional delay. The reply to the Notice is accepted as having been unintentionally delayed.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application will be referred to Office of Data Management for further processing.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
MAR 29 2011
OFFICE OF PETITIONS

SMITH HOPEN, PA
180 PINE AVENUE NORTH
OLDSMAR, FL 34677

In re Application of	:	
Hasari Celebi et al	:	
Application No. 12/018,509	:	DECISION ON PETITION
Filed: January 23, 2008	:	
Attorney Docket No. 1372.480PRC	:	

This is a decision on the petition filed February 22, 2011, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to timely pay the issue on or before January 27, 2011, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed October 27, 2010.

Petitioner asserts that a technical problem resulted in the inadvertent non-receipt of the issue fee payment. Applicants promptly contacted the Electronic Business Center and the Applications Assistance Unit. In view of the timely filing and completion of the credit card payment form, it is clear that the fee meant to be paid.

Unfortunately, technical problems which caused failure to timely pay the issue fee is not acceptable. The issue fee, as required by the Notice of Allowance and Fee(s) Due mailed October 27, 2010, set a statutory period of three (3) months. The issue fee must be paid within this three (3) months period. Therefore, this petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

ALTERNATIVE VENUE

Petitioner is 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.

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 Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
MAY 03 2011
OFFICE OF PETITIONS

SMITH HOPEN, PA
180 PINE AVENUE NORTH
OLDSMAR, FL 34677

In re Application of :
Hasari Celebi et al :
Application No. 12/018,509 : ON PETITION
Filed: January 23, 2008 :
Attorney Docket No. 1372.480.PRC :

This is a decision on the petition filed April 6, 2011 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed October 27, 2010, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 28, 2011.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee; (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Attorney Docket No. 18300US02

In re Patent Application of

Natalie Bryant et al.

Application No. 12/018,605

Confirmation No.: 8425

Group Art Unit: 3714

Filed: January 23, 2008

Examiner: Coburn, Corbett B.

"Gaming Machine With Buy Feature Games"

CERTIFICATION OF ELECTRONIC FILING

I hereby certify that this correspondence is being electronically filed with the Patent and Trademark Office on November 19, 2010.

Larry M. Jarvis (Reg. No. 27,341)

/Larry M. Jarvis/
Signature

PETITION TO MAKE SPECIAL UNDER PATENT APPLICATION BACKLOG REDUCTION STIMULUS PLAN (37 C.F.R. §1.102(d))

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

Applicants hereby petition under 37 C.F.R. §1.102(d) to have the above-identified Application (hereinafter "Application B") made special under the Patent Application Backlog Reduction Stimulus Plan (hereinafter "the Plan"), under which a co-pending application as identified below is expressly abandoned.

Applicants respectfully submit that the filing date of the Application B is January 23, 2008, which is prior to October 1, 2009, has not been examined, and has been assigned to Aristocrat Technologies Australia Pty Ltd.

Applicants respectfully submit that the filing date of co-pending Application, 11/937,970 (Title: "System and Methods for Nudge Roulette", Attorney Docket No. 17743US02, hereinafter "Application D") is November 9, 2007 which is prior to October 1, 2009. Application D is

complete under 37 C.F.R. 1.53, has not been examined, and has also been commonly assigned to Aristocrat Technologies Australia Pty Ltd as of November 9, 2007. Application D has been expressly abandoned. A copy of the letter of express abandonment of Application D is attached hereto.

Applicants also respectfully submit that Applicants have not filed petitions in more than fourteen other applications requesting special status under the Plan.

Applicants also agree to make an election without traverse in a telephonic interview if the Office determines that the claims of Application B to be made special are directed to two or more independent and distinct inventions.

It is understood that the fee associated with the present Petition has been waived under the Plan. However, the Commissioner is hereby authorized to charge any other fees associated with this communication, or credit any overpayment, to Deposit Account No. 13-0017.

Based on at least the foregoing reasons, it is respectfully requested that this "Petition to Make Special" be granted by the Commissioner.

Respectfully submitted,

Dated: November 19, 2010

/Larry M. Jarvis/
Larry M. Jarvis
Reg. No. 27,341

McAndrews, Held & Malloy, Ltd.
500 W. Madison Street
34th Floor
Chicago, Il 60661
Phone (312) 775-8000
Fax (312) 775-8100

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Attorney Docket No. 17743US02

In re Patent Application of

Gareth Phillips et al.

Application No. 11/937,970

Confirmation No.: 2860

Group Art Unit: 3718

Filed: November 9, 2007

Examiner: Wei Li

"System and Methods for Nudge Roulette"

CERTIFICATION OF ELECTRONIC FILING

I hereby certify that this correspondence is being electronically filed with the Patent and Trademark Office on November 19, 2010.

Larry M. Jarvis (Reg. No. 27,341)

/Larry M. Jarvis/
Signature

EXPRESS ABANDONMENT UNDER 37 C.F.R. 1.138(a)

Commissioner of Patents
P.O. Box 1450
Alexandria VA, 22313-1450

Dear Sirs:

Applicants hereby expressly abandon the above-identified application. By abandoning the present application, Applicants are not taking a position regarding the patentability of the currently pending claims.

Applicants respectfully submit that the filing date of above-identified Application is complete under 37 C.F.R. 1.53, has not been examined, and has also been assigned to Aristocrat Technologies Australia Pty Ltd.

Applicants have not and will not file an application that claims the benefit of the present expressly abandoned application under any provision of 35 United States Code.

Applicants agree not to request a refund of any fees paid in the present expressly abandoned application.

Applicants have not and will not file a new application that claims the same invention claimed in the present expressly abandoned application, as used in the context of statutory double patenting under 35 U.S.C. 101.

Respectfully submitted,

Dated: November 19, 2010

/Larry M. Jarvis/
Larry M. Jarvis
Reg. No. 27,341

McAndrews, Held & Malloy, Ltd.
500 W. Madison Street
34th Floor
Chicago, Il 60661
Phone (312) 775-8000
Fax (312) 775-8100

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

NOV 29 2010

OFFICE OF PETITIONS

In re Application of :
BRYANT, et al. :
Application No. 12/018,605 :
Filed: January 23, 2008 :
Attorney Docket No. **18300US02 (S81339184)** :

DECISION ON PETITION
TO MAKE SPECIAL
37 CFR 1.102

This is a decision on the petition under 37 CFR 1.102, filed November 19, 2010, to make the above-identified application special under the Patent Application Backlog Reduction Stimulus Plan which is a pilot program set forth at 74 Federal Register Notice 62285 (November 27, 2009) and 75 Federal register Notice 36063 (June 24, 2010).

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 62285 and 75 FR 36063 must be directed to a nonprovisional application filed prior to October 1, 2009.

The USPTO will accord special status for examination under Patent Application Backlog Reduction Stimulus Plan under the following conditions:

(1) The application for which special status is sought is a nonprovisional application that has an actual filing date earlier than October 1, 2009;

(2) The applicant has another copending nonprovisional application that has an actual filing date earlier than October 1, 2009, and is complete under 37 CFR 1.53;

(3) The application for which special status is sought and the other copending nonprovisional application either are owned by the same party as of October 1, 2009, or name at least one inventor in common;

(4) The applicant files a letter of express abandonment under 37 CFR 1.138(a) in the copending nonprovisional application before it has been taken up for examination and

a) include a statement that the applicant has not and will not file a new application that claims the same invention claimed in the expressly abandoned application;

b) includes with the letter of express abandonment a statement that the applicant has not and will not file an application that claims the benefit of the

expressly abandoned application under any provision of title 35, United States Code, and

c) the applicant agrees not to request a refund of any fees paid in the expressly abandoned application; and

(5) The applicant files a petition under 37 CFR 1.102 in the application for which special status is sought that

a) includes a specific identification of the relationship between the applications that qualifies the application for special status;

b) identifies, by application number if available, the application that is being expressly abandoned;

c) provides a statement certifying that applicant has not filed petitions in more than fourteen (14) other applications requesting special status under this program; and

d) provides a statement that applicant agrees to make an election without traverse in a telephonic interview if the Office determines that the claims of the application to be made special are directed to two or more independent and distinct inventions.

The requirement for a fee for consideration of the petition to make special for applications pertaining to Patent Application Backlog Reduction Stimulus Plan has been waived.

The instant petition complies with the conditions required under Patent Application Backlog Reduction Stimulus Plan. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Brian W. Brown at 571-272-5338.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Office of Patent Application Processing for further processing commensurate with this decision.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

AUG 27 2010

OFFICE OF PETITIONS

MORRISS OBRYANT COMPAGNI, P.C.
734 EAST 200 SOUTH
SALT LAKE CITY UT 84102

In re Application of	:	
Orest G. Symko et al.	:	
Application No. 12/018,762	:	DECISION ON
Filed: January 23, 2008	:	PETITION TO WITHDRAW
Attorney Docket No. 3556.UOFU.PT	:	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 26, 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 Frank W. Compagni on behalf of all attorneys/agents associated with customer 26986. All attorneys/agents associated with customer number 26986 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: Orest G. Symko
Department of Physics, University of Utah
115 South 1400 East
Salt Lake City, UT 84112

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
12/018,762	01/23/2008	Orest G. Symko	3556.UOFU.PT

CONFIRMATION NO. 8727

26986
MORRISS OBRYANT COMPAGNI, P.C.
734 EAST 200 SOUTH
SALT LAKE CITY, UT 84102

POWER OF ATTORNEY NOTICE

OC000000043054405

Date Mailed: 08/16/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/26/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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	12018762
Filing Date	23-Jan-2008
First Named Inventor	Orest Symko
Art Unit	2837
Examiner Name	BRYAN GORDON
Attorney Docket Number	026389-9014
Title	COMPACT THERMOACOUSTIC ARRAY ENERGY CONVERTER

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	/gregory j. hartwig/
Name	Gregory J. Hartwig
Registration Number	46761

UNITED STATES 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 12,2011

In re Application of :

Orest Symko

Application No : 12018762

Filed : 23-Jan-2008

Attorney Docket No : 026389-9014

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed July 12,2011 , to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the 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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MAILED

MAY 19 2011

OFFICE OF PETITIONS

Bill Whistler Kenworthy
P.O. Box 669
Palatine, IL 60078

In re Application of Kenworthy :
Application No. 12/018,802 : Decision on Petition
Filing Date: January 24, 2008 :
For: Apparatus for Launching Subcaliber :
Projectiles at Propellant ... :

This is a decision on the petition under 37 CFR 1.137(b) filed March 4, 2011, which requests revival of the application.

The petition is **granted**.

The Office mailed a non-final Office action on March 3, 2010. The Office action set a shortened statutory period for reply of three months. Petitioner obtained a three-month extension of time and filed an amendment on September 3, 2010. Unfortunately, the amendment was not accompanied by a payment of $26 for one claim in excess of twenty claims. As a result, the application became abandoned on September 4, 2010. The Office mailed a Notice of Abandonment on December 7, 2010.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995, or if the application is a design application.

The petition satisfies the requirements of 37 CFR 1.137(b) in so far as petitioner has supplied a reply in the form of a payment of $26, the required petition fee of $810, and the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 3641 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH FL 33402-3188

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Application of	:	
MCGRATH, et al	:	
Application No. 12/018,934	:	DECISION ON PETITION
Filed: January 24, 2008	:	TO WITHDRAW
Attorney Docket No. 6619-85-3 (212311)	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed May 5, 2011.

The request is **NOT APPROVED**.

A review of the file record indicates that Mark D. Passler 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 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.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: BRAND BUILDERS RX
4400 34TH STREET NORTH, SUITE F
ST. PETERSBURG FL 33714

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOSEPH P. CURTIN
1469 N.W. MORGAN LANE
PORTLAND OR 97229

MAILED
FEB 13 2012
OFFICE OF PETITIONS

In re Application of	:	
Miodrag Ognjenovic	:	
Application No. 12/019,008	:	DECISION ON PETITION
Filed: January 24, 2008	:	TO WITHDRAW
Attorney Docket No. **146.0001**	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed December 29, 2011.

The request is **NOT APPROVED**.

A review of the file record indicates that Joseph P. Curtin or any attorney/agents associated with Customer Number 35987 does not have power of attorney or was ever given power of attorney in the above-identified application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the address of record until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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John Karl Buche
BUCHE & ASSOCIATES, P.C.
875 PROSPECT
SUITE 305
LA JOLLA CA 92037

MAILED

AUG 12 2010

OFFICE OF PETITIONS

In re Application of	:	
David Brian Jahnz	:	
Application No. 12/019,192	:	DECISION ON PETITION
Filed: January 24, 2008	:	
Attorney Docket No. IMTYRIS - DIV	:	

This is a decision on the petition under 37 CFR 1.59(b), filed March 2, 2010, to expunge information from the above identified application.

The petition is **granted**.

Petitioner requests that form PTO-2038 that was filed on March 1, 2010, be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

Petitioner states form PTO-2038 contains credit information that should not have been made pubic.

In a paper file, the unintentionally submitted exhibits could, but not necessarily would, have been physically removed from the file wrapper and returned to applicant. In the IFW realm the corresponding action(s) is to close the document and also remove such from the listing of "Publicly available Documents." It is agreed that it would be appropriate in this instance to close the information that was filed in the above identified application, and also remove such from the listing of publicly available documents for this Image File Wrapper (IFW).

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 5, 2010

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: 12019217 Patent No.: 7784356

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-C
Palm Location 7580

Certificates of Correction Branch
703-756-1573

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Hezron Williams 2856
SPE **Art Unit**

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P.O. Box 1450
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MAILED
OCT 25 2010
OFFICE OF PETITIONS

NEUSTEL LAW OFFICES, LTD.
2534 SOUTH UNIVERSITY DRIVE
SUITE 4
FARGO ND 58103

In re Application of	:	
David A. HOOK	:	
Application No. 12/019,239	:	DECISION ON PETITION
Filed: January 24, 2008	:	
Attorney Docket No. HOOK-004	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 30, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed May 4, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on August 5, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

The Examiner assigned to this application has approved the corrected drawings filed with the petition on August 30, 2010.

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.

/DG/
Diane 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.
12/019,435	01/24/2008	Otis Crandell ADDINGTON	PBI-1-US	9980

24039 7590 06/29/2011
INNOVAR, LLC
P O BOX 250647
PLANO, TX 75025

EXAMINER
DAVIS, DEBORAH A

ART UNIT	PAPER NUMBER
1655	

NOTIFICATION DATE	DELIVERY MODE
06/29/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

innovarllc@sbcglobal.net
patents@innovarllc.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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INNOVAR, LLC
P O BOX 250647
PLANO TX 75025

In re Application of	:	
Otis C. Addington		:
Serial No.: 12/019,435	:	Decision on Petition
Filed: January 24, 2008		:
Attorney Docket No.: **PBI-1-US**	:	

This letter is in response to the petition filed under 37 C.F.R. § 1.181 filed on April 18, 2011 to withdraw the finality of the Office action of March 9, 2011.

BACKGROUND

The examiner mailed to applicant a non-final Office action on October 22, 2010. Claims 20-26, 31-48 and 60-68 were pending, and claims 20-25, 31-34 and 60-68 were rejected. Claims 26 and 35-48 were withdrawn from consideration. Claims 32-33 were rejected under 35 USC 112, second paragraph, as indefinite. Claims 20-26, 31-34, and 60-68 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ozel in view of Raventos et al., as evidenced by Siddiqui et al.

In response thereto, applicant submitted amendments and remarks on January 6, 2011 addressing the rejections set forth in the Office action of October 22, 2010.

The examiner mailed to applicant a final Office action on March 9, 2011. Claims 20-26, 32-48 and 60-68 were pending and claims 20-25, 32-34 and 60-68 were rejected. Claims 26 and 35-48 were withdrawn from consideration. Claims 20-26, 31-34, and 60-68 were rejected under 35 U.S.C. 103(a) as being unpatentable over Yamauchi in view of Raventos et al., as evidenced by Siddiqui et al. It is noted the examiner indicated claim 31 again rejected but this is in error as claim 31 has been cancelled. The examiner noted that applicant's amendment necessitated the new ground(s) of rejection set forth in the final Office action.

On April 18, 2011, applicant submitted a petition to withdraw finality of the Office action of March 9, 2011.

DISCUSSION

The renewed petition and file history have been carefully considered.

Applicant argues that "... the office action made final includes a rejection, on prior art not of record, of a claim amended to include a limitation which would reasonably have been expected to be claimed. In this regard, the subject matter added to claim 20 is broader in scope than the subject matter of original claim 61, which had already been searched. Both broader and narrower aspects of the subject matter added to claim 20 were already searched. In other words, the subject matter added to claim 20 could reasonably have been expected to be claimed. As such, examiner's holding of finality is improper."

Applicant's points are well-taken and found persuasive. Accordingly, 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 as in the instant case nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c).

DECISION

The petition is **GRANTED**.

The Office action mailed March 9, 2011 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 April22, 2011 will also be entered. Furthermore, a new non-final Office action will be forthcoming to better address the limitations of the claimed invention.
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 Special Program Examiner Marianne Seidel, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

JMStone

Jacqueline Stone
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
AUG 23 2011
OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No.7,962,477	:	
Hu, et al.	:	DECISION FOR REQUEST
Issue Date: June 14, 2011	:	FOR RECONSIDERATION
Application No. 12/019,486	:	OF PATENT TERM
Filed: January 24, 2008	:	ADJUSTMENT
Attorney Docket No. 16113-0377001	:	

This is a decision on the "Application for Patent Term Adjustment Under 37 CFR 1.705(d)," filed August 12, 2011. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from four hundred and two (402) days, to five hundred and thirty (530) days.

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

On June 14, 2011, the above-identified application matured into U.S. Patent No. 7,962,477, with a revised patent term of 402 days. By the instant petition, patentees assert that the patent term should be adjusted by 530 days pursuant to 37 CFR 1.702(b) and 37 CFR 1.703(b). Patentees state:

> Section 154(b)(1)(B)(i) of Title 35 excludes from the calculation of B Delay "any time consumed by continued examination of the application." In the present matter, a Request for Continued Examination was filed on January 18, 2011. The Director erred in the calculation of the patent term adjustment by subtracting from B Delay a period of time that was not "consumed by continued examination of the application." The PTO mailed a Notice of Allowance on February 7, 2011, thereby closing examination of the application on that date. Thus, no continued examination took place during 128 day period from February 7, 2011 (the mailing date of the Notice of Allowance) until June 14, 2011 (the date the patent was

issued). Accordingly, 128 days for "B Delay" should have been included in addition to the 0 days accorded by the Director for a total B Delay of 128 days.

Excerpt taken from "Application for Patent Term Adjustment Under 37 CFR 1.705(d)," filed August 1, 2011, pages 2 and 3.

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 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.

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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.

Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp.2d 138(D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The

time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

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[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under

35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the

[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on January 18, 2011, and the patent issued by virtue of that request on June 14, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on January 18, 2011, and ending on June 14, 2011, is not included in calculating Office delay.

In view thereof, it is concluded that the patent term adjustment of 402 days indicated on the patent is correct.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

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In re Patent No.7,962,477	:	
Hu, et al.	:	DECISION FOR REQUEST
Issue Date: June 14, 2011	:	FOR RECONSIDERATION
Application No. 12/019,486	:	OF PATENT TERM
Filed: January 24, 2008	:	ADJUSTMENT
Attorney Docket No. 16113-0377001	:	

This is a decision on the "Response to Decision on Request for Reconsideration of Patent Term Adjustment", filed October 24, 2011. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from four hundred and two (402) days, to five hundred and thirty (530) 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**.

BACKGROUND

On June 14, 2011, the subject application matured into U.S. patent No. 7,962,477, with a revised patent term adjustment of four hundred and two (402) days. This revised determination included entry of an additional period of adjustment of zero (0) days for the Office taking in excess of three years to issue the patent.

On August 12, 2011, a petition under 37 CFR 1.705(d) was filed requesting that patent term adjustment be reflected as five

hundred and thirty (530) days. The petition was dismissed by a decision mailed August 23, 2011.

On October 24, 2011, this request for reconsideration of the decision was filed.

By the instant petition, patentees again dispute the calculation of the "B" delay period of the patent term adjustment. Specifically, patentees' state:

> Patentees submit that B Delay accumulated for a total of 141 days, beginning on January 24, 2011 (the day after the date that is three years after the date on which the application was filed), and ending June 14, 2011 (the date the patent was issued). The Office has excluded from B Delay the number of days corresponding to the period beginning on January 18, 2011 (the date on which a Request for Continued Examination was filed) and ending on June 14, 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 Examiner's mailing of the Notice of Allowance Action on February 7, 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).

Excerpt taken from "Response to Decision on Request for Reconsideration of Patent Term Adjustment", filed October 24, 2011, pgs. 2-3.

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 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

[1] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

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]:

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

[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.

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 "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]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

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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.

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.

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 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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[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.

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] permit the filing of a request for continued examination under

[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.

37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on January 18, 2011, and the patent issued by virtue of that request on June 14, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on January 18, 2011, and ending on June 14, 2011, is not included in calculating Office delay. In view thereof, it is concluded that the patent term adjustment of 402 days is correct.

CONCLUSION

The request for reconsideration of the revised patent term adjustment is denied.

The Office acknowledges that patentees previously submitted the $200 fee set forth in §1.18(e) on application for patent term adjustment filed August 12, 2011. As this request pertains only to the over 3-year delay issue raised in the application for patent term adjustment, no additional fees are required. Deposit account 06-1050 will be refunded $200.00, accordingly.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin. Petitions Attorney, (571) 272-3222.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
AUG 10 2011
OFFICE OF PETITIONS

In re Application of	:	
Larsen, et al.	:	
Application No. 12/019,493	:	DECISION
Filed/Deposited: 24 January, 2008	:	
Attorney Docket No.. GD CAO 01 BB	:	

This is a decision on the papers filed on 11 July, 2011, and supplemented on 8 august, 2011, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

NOTE:

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue.

Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1]

In the event that such an inquiry has not been made, Petitioner ***must*** *make such an inquiry.*

If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional, Petitioner ***must*** *notify the Office.*

Moreover, the record (including the petition filed on 11 July, 2011) does not necessitate a finding that the delay between midnight 13 October, 2008 (the date of abandonment), and 11 July, 2011 (the date of the filing of grantable petition), was not unintentional.

[1] See 37 C.F.R. §11.18(b), formerly §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).

> *Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel Kelly R. Preece (Reg. No. 55,550) when accepting Petitioner's representation that the delay in filing the response was unintentional.*[2]

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the petition decision (dismissal) mailed on 13 August, 2008, with reply due absent extension of time on or before 13 October, 2008.

The application went abandoned by operation of law after midnight 13 October, 2008.

The Office mailed the Notice of Abandonment on 22 March, 2011.

On 11 July 2011, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b) to revive the application as having been abandoned due to unintentional delay, a reply in the form of an oath/declaration, but failed to properly renew the petition pursuant to 37 C.F.R. §1.47 and aver joinder by the formerly non-signing inventor. Petitioner appears to have corrected this oversight on 8 August, 2011, with a supplement to the petition pursuant to 37 C.F.R. §1.137(b) with a re-advancement of the petition pursuant to 37 C.F.R. §1.47 as the proper reply.

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[2] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

As noted above, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue.

Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[3] *In the event that such an inquiry has not been made, Petitioner* ***must*** *make such an inquiry.*

If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional, Petitioner ***must*** *notify the Office.*

Moreover, the record (including the petition filed on 11 July, 2011) does not necessitate a finding that the delay between midnight 13 October, 2008 (the date of abandonment), and 11 July, 2011 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel Kelly R. Preece (Reg. No. 55,550) when accepting Petitioner's representation that the delay in filing the response was unintentional.[4]

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[5]

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[3] See 37 C.F.R. §11.18(b), formerly §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).

[4] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

[5] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[6] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[7])

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Patent Application Processing (OPAP) for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the OPAP in response to this decision. It is noted that all inquiries with regard to status need be directed to the OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

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and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[6] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however , that all practice before the Office is in writing (see: 37 C.F.R. §1.2[8]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[8] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
AUG 10 2011
OFFICE OF PETITIONS

In re Application of	:	
Larsen, et al.	:	
Application No. 12/019,493	:	DECISION
Filed/Deposited: 24 January, 2008	:	
Attorney Docket No. GD CAO 01 BB	:	

This is a decision on the petition filed on 8 August, 2011, pursuant to 37 C.F.R. §1.47.

The petition as considered under 37 C.F.R. §1.47(a) is **DISMISSED**.

A grantable petition pursuant to 37 C.F.R. §1.47(a) requires: (1) petition and fee; (2) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); (3) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; and (4) a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability of the message and all applicable attachments of required materials must be provided.

BACKGROUND

The record reflects as follows:

The application was deposited on 24 January, 2008, without, *inter alia*, a fully executed oath/declaration

It does not appear that the Office mailed a Notice of Missing Parts requiring, *inter alia*, a fully executed oath/declaration because former Counsel Geoffrey E. Dobbin (Reg. No. 42,490) filed, *inter alia*, a petition pursuant to the regulations at 37 C.F.R. §1.47, with an oath/declaration executed by co-inventor Larsen for himself and on behalf of non-signing co-inventor Calvin D. Ostler (Mr. Ostler), and an insufficient showing under the rule, such that the petition was dismissed on 13 August, 2008.

When there was no reply to the 13 August, 2008, decision absent extension of time on or before 13 October, 2008, the application went abandoned after midnight 13 October, 2008.

On On 11 July 2011, Petitioner Kelly R. Preece (Reg. No. 55,550) filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b) to revive the application as having been abandoned due to unintentional delay, a reply in the form of an oath/declaration, but failed to properly renew the petition pursuant to 37 C.F.R. §1.47 and aver joinder by the formerly non-signing inventor. Petitioner appears to have corrected this oversight on 8 August, 2011, with a supplement to the petition pursuant to 37 C.F.R. §1.137(b) with a re-advancement of the petition pursuant to 37 C.F.R. §1.47 as the proper reply. Petitioner averred that consistent with the guidance in the Commentary at MPEP §409.03, and §409.03(a) et seq., he obtained a reply from the previously non-signing inventor Mr. Ostler, who executed the oath/declaration and so joined in the application, and in support of the averment, Petitioner submitted a copy of the executed oath/declaration in compliance with 37 C.F.R. §1.63—and so evidencing his joinder.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

CONCLUSION

The instant petition under 37 C.F.R. §1.47 is **dismissed as moot for joinder**.

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

In view of the joinder of the inventor, further consideration under 37 C.F.R. §1.47 is not necessary. This application does not have any Rule 1.47 status and no such status should appear on the record for this file. This application should not be returned to this Office for any further consideration under 37 C.F.R. §1.47.

The instant application is released to the Office of Patent Application Processing (OPAP) for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.